



Central Pine Barrens Commission Meeting Agenda
Wednesday, August 17, 2022 at 2:00 pm
Remote Meeting Via Zoom

Link to Join Zoom Meeting

<https://us02web.zoom.us/j/87165984321?pwd=TXhzemJpVG95NkVGTFVjaTh3dTFIZz09>

Dial by your location

+1 312 626 6799 or +1 669 900 6833

Meeting ID: 871 6598 4321

Passcode: 507420

THIS MEETING WILL BE HELD REMOTELY – ATTENDANCE THROUGH ZOOM ONLY

1. Administrative and Public Comment

- a. Public Comment
- b. Minutes for 7/20/22 review (*approval*)

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

2. Planning, Land Use and the Pine Barrens Credit Program

Compatible Growth Area

- a. Finks Country Farm Compatible Growth Area Hardship Waiver / 6242 Middle Country Road, Wading River / 600-134-1-1.3 / exceed the 65% clearing limit for agricultural use to 95% on 11.2 acres / *decision deadline 9/2/22 / request to withdraw application (Ms. Hargrave)*

Core Preservation Area

- a. Bide-A-Wee Home Association, Inc. / Westhampton / 900-276-3-5.2 / replace two existing sanitary systems and public acquisition / *draft response (Ms. Hargrave)*
- b. Suffolk County 2020 Hike and Bike Master Plan / Bellows Pond Road and CR 51 / *draft letter (Ms. Hargrave)*

3. Public Hearing at 3:00 pm

- a. Expressway Drive North CGA-Development of Regional Significance / LIE North Service Road, west of Sills Road / Yaphank / 200-662-2-5.16 / development of 549,942 square feet of warehouses in three buildings on 71.45 acres / *decision deadline 10/10/22 (Ms. Hargrave)*
- b. Finks Country Farm Compatible Growth Area Hardship Waiver / 6242 Middle Country Road, Wading River / 600-134-1-1.3 / exceed the 65% clearing limit for agricultural use to 95% on 11.2 acres (*Ms. Hargrave*) – **WITHDRAWN – NO PUBLIC HEARING**

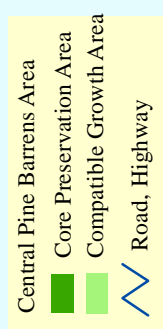
4. Public Comment

5. Closed Advisory Session (if necessary)

624 Old Riverhead Road
Westhampton Beach, NY
11978

Phone (631) 288-1079
Fax (631) 288-1367
www.pb.state.ny.us

Next Commission Meeting, Wednesday, September 21, 2022 at 2:00 pm.
For meeting information visit <https://pb.state.ny.us/>



Note: This map is intended for general reference only and is not to be used for surveying, legal interpretation of jurisdictional boundaries, or other precise purposes. Information shown on this map may contain defects, errors, and/or omissions. Refer to NYS ECL Article 57-0107 (10), (11), and (12) for the official description of the Central Pine Barrens boundaries. Prepared by Commission Staff (4) August 8, 2022.



**Central Pine Barrens Commission Meeting Summary
Wednesday, July 20, 2022 (DRAFT)
Hybrid In-Person and Remote Meeting
Riverhead Town Hall
200 Howell Avenue, Riverhead, NY 11901**

2:00 pm

Commission members present: Mr. Romaine (for Brookhaven), Ms. Aguiar and Mr. McCormick (for Riverhead), Ms. Scherer and Mr. Shea (for Southampton), Mr. Dale and Mr. Freleng (for Suffolk County), New York State Governor's Representative (not designated).

Others present: Commission and other agency staff members included Ms. Jakobsen, Mr. Milazzo, Ms. Hargrave, Mr. Tverdy, Mr. Huss, Mr. Panko, Ms. Cohn, Ms. Acampora, Ms. Malangone and Ms. Brown-Walton.

Ms. Aguiar led the pledge to the flag and Ms. Jakobsen noted that with four Commission members present there is a quorum. Ms. Jakobsen explained that the meeting was a Hybrid meeting attending in person and on Zoom.

1. Administrative and Public Comment

a. Public Comments

Summary: No public comments were received.

b. Minutes for 6/15/22

Summary: **The motion was made by Mr. Shea and seconded by Ms. Aguiar to approve the 06/15/22 meeting minutes. The motion was approved by the four members present.**

c. Commission budget for fiscal year 2022 - 2023

Summary: Ms. Jakobsen discussed there is 3.3 million in allocation from New York State which includes an annual increase of \$500,000 to the prior \$2 million allocation and it also includes reappropriated funds from prior years

The motion was made by Mr. Romaine and seconded by Mr. Dale to approve the Commission budget for fiscal year 2022-2023. The motion was approved by the four members present.

2. Education, Science and Stewardship

a. NYWIMA update - Summary: Ms. Malangone discussed highlights and updates on NYWIMA's activities covered in the previously distributed NYWIMA report. Mr. McCormick asked if the courses are offered remotely. Ms. Malangone explained that there are no virtual classes offered because some of the classes have field components so the remote option would not be effective.

Education and Outreach update - Summary: Ms. Parrott is managing the Barrens to Bay Summer Camp, so she is not present. The education and outreach division's activities are covered in the previously distributed education and outreach division report.

Science and Stewardship update - Summary: Ms. Cohn presented for Ms. Weigand and discussed highlights and updates on the Science and Stewardship division's activities covered in the previously distributed Science and Stewardship division report. Mr. McCormick asked about the encroachment of Southern Pine Beetles in Riverhead. Ms. Cohn did not have that information but offered to follow-up and look into it.

b. Draft Resolution to approve ATV purchase for Town of Southampton Police using Commission violation fund monies

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H.
Schneiderman
Member

624 Old Riverhead Road
Westhampton Beach, NY
11978

Phone (631) 288-1079
Fax (631) 288-1367
www.pb.state.ny.us

Summary: The motion was made by Mr. Shea and seconded by Ms. Aguiar to approve the draft resolution to purchase an ATV for the Town of Southampton Police using Commission violation fund monies. The motion was approved by the four members present.

c. **FOREST Funding Update**

Summary: Ms. Jakobsen discussed that at the June 15, 2022 Commission meeting the resolution passed to accept financial assistance in the amount of \$2,700.00 from FOREST to help pay for housing for a researcher performing research work under a U.S. Forest Service grant awarded to the Commission, the University of Vermont and BNL. The grant is to develop a Management Guide for Pitch Pine regeneration post Southern Pine Beetle. FOREST can provide the money directly to either the researcher or to BNL housing, so the Commission will not be receiving that money.

The motion was made by Mr. Romaine and seconded by Mr. Dale to approve to rescind the acceptance of the money from FOREST in the amount of \$2,700.00 from the June 15, 2022 Commission meeting to fund housing for a research assistant so that there is a clean record that the Commission did not receive the money. The motion was approved by the four members present.

3. **Planning, Land Use and the Pine Barrens Credit Program**

- a. **Compliance and Enforcement update** - **Summary:** Mr. Huss discussed highlights and updates on the Compliance and Enforcement division's activities covered in the previously distributed compliance and enforcement division report. Mr. Huss revealed that he will be retiring soon. Mr. McCormick, Mr. Shea and the entire Commission thanked Mr. Huss for his professionalism, dedication and service to the Pine Barrens. It has been a pleasure to work with him, he has been an asset to the Commission and wished him well on his retirement.
- Land Use update** - **Summary** Ms. Hargrave discussed highlights and updates on the Land Use division's activities covered in the previously distributed land use division report.
- Credit Program update** - **Summary:** Mr. Tverdy discussed highlights and updates on the Credit Program's activities covered in the previously distributed credit program division report.

Core Preservation Area

- b. **NYSDEC referral:** Peconic Sportsman's Club herbicide application to treat invasive fanwort with flumioxazin in Donohue Pond and inlets, 42 acres / 389 River Road, Manorville / 200-298-1-1 and 600-142-2-1.1.

Summary: Ms. Hargrave discussed that there is a draft letter that was in the e-packet in response to this referral from NYSDEC. The Commission had additional questions on the proposed product, the active ingredient and its potential environmental impacts, alternatives for treating this invasive species, how often the invasive species occurs in this habitat and the pond, potential impacts to the habitat, public health concerns if any and whether there was a long-term maintenance plan. Ms. Jakobsen stated there is no action before the Commission today except to authorize sending the response letter to the DEC referral.

John Armentano, an attorney from Farrell Fritz, was present today to represent the Peconic River Sportsman's Club. He discussed how the invasive species, fanwort, is impacting Donohue Pond and its recreational use. He then discussed the development and non-development provisions related to restoration activities and the expansion of recreational use under ECL Article 57-107(13). He considers the application of the herbicide as restoration of the pond and not development. In addition, he discussed how fanwort was limiting the ability to use the pond for recreational activities such as fishing and boating and how the absolute deadline for applying the herbicide to treat the pond this year would be September. Mr. Armentano mentioned the prior use of the product SONAR, eight years ago to treat the pond and how DEC is currently treating the Peconic River for

invasive primrose that was not referred to the Commission. He mentioned that the Towns of Brookhaven and Riverhead have granted approved this activity. Mr. McCormick asked Mr. Armentano to provide the name of the contact in the Town of Riverhead to him who was involved with the permit approval.

Mr. Shea inquired about whether a biological inventory had been performed to identify rare plants and animals and whether an assessment had been performed to evaluate impacts of the herbicides to those species. Mr. Armentano stated no critical species were identified in the EAF and discussed the half-life of the product and activities that may continue such as fishing, etc. after its application in the water.

Assemblywoman Giglio was present via Zoom who provided comments on the permit application and discussed how according to PRSC that the original permit they had received for the use of this herbicide had expired due to COVID and how there has been a rapid expansion of fanwort in the pond which will cause a significant increase in the cost to treat. She mentioned that she represents PRSC, Peconic Lake Estates and the Town of Riverhead. It was noted that DEC approved the Article 15, pesticide permit, however, since the project is over 10 acres, a SEQRA review was required.

Supervisor Aguiar inquired whether there was a way to accelerate the review process for this permit. Mr. Milazzo explained that DEC is required to conform with the Act and the Plan and at this point the DEC is lead agency and if the project is determined to be development, the Commission would become an involved agency.

Mr. Milazzo discussed there is a Commission held conservation easement on this property and that is why it should be reviewed in context with Article 57 and the provisions of the conservation easement and obtain any additional necessary information from DEC regarding this permit to facilitate providing a recommendation to the Commission.

Mr. Shea stated that regardless of whether or not the project is deemed development, it is appropriate for the Commission to act in an advisory manner and to provide comments to the DEC in response to the referral and raise appropriate questions to get additional information. The Commission is charged with protecting the Pine Barrens and its ecology.

The motion was made by Mr. Shea and seconded by Mr. Aguiar to approve sending the draft response letter to the New York State DEC for Peconic Sportsman's Club herbicide application. The motion was approved by the four members present.

Compatible Growth Area

- c. Expressway Drive North Compatible Growth Area-Development of Regional Significance / development of 549,942 square feet of warehouses on 71.45 acres on the LIE North Service Road, west of Sills Road / Yaphank / schedule a public hearing

Summary: Ms. Jakobson classified that this is also a hardship application.

The motion was made by Mr. Romaine and seconded by Mr. Shea to approve to schedule a public hearing on August 17, 2022. The motion was approved by the four members present.

- d. 59 Ryerson Avenue Subdivision Compatible Growth Area Hardship Waiver / Manorville / 200-461-4-31 & 32 / two lot substandard subdivision on 0.8 acre in A Residence 2 / exceed clearing limit standard / request hearing adjournment and extension of decision deadline

Summary: **The motion was made by Mr. Shea and seconded by Mr. Dale to approve to schedule a public hearing on September 21, 2022 and extend the decision deadline to October 19, 2022. The motion was approved by the four members present.**

- e. Southampton ZBA referral: 7 Eleven signage Hampton Bays / 900-221-3-17 /

development of new gas station with a two-story, 3,545 square foot convenience store on 2 acres in the Highway Business Zoning District.

Summary: Ms. Hargrave discussed there are guidelines that speak to signage, but this project will not achieve the threshold for a development of regional significance where the commission will be reviewing signage.

The motion was made by Mr. Shea and seconded by Ms. Aguiar to approve to send the draft response letter to the Town of Southampton for the 7 Eleven gas station with convenience store.

4. Finks Fink's Country Farm Compatible Growth Area Hardship Waiver / 6242 Middle Country Road, Wading River / 600-134-1-1.3 / exceed the 65% clearing limit for agricultural use to 95% on 11.2 acres / decision deadline 9/2/22 fertilizer-dependent vegetation limit standards / adjourn to 8/17/22— Adjourned

Summary: **The motion was made by Mr. Shea and seconded by Ms. Aguiar to approve to schedule a public hearing on August 17, 2022. The motion was approved by the four members.**

5. Public Comment

Summary: Ms. Leonhardt, Pine Barrens Society expressed her concern about the herbicide application presented to rid the Peconic Sportsman's Club of the invasive species that is choking off the pond. After reading the comments from staff, looking at the toxicity, the label indications and at the MSDS studies, the Pine Barren Society is concerned about toxicity to animals and humans. Ms. Leonhardt suggested looking at another way to address this issue as Ms. Hargrave mentioned. She appreciates the Commission for taking a hard look before making a final decision on this chemical.

Public Session of the Meeting Adjourned at 3:03 pm.

6. Public Hearings at 3:00pm

- a. Tommasino Compatible Growth Area Hardship Waiver / 88 Woodland Ave, Manorville / 200-558-2-23.3 / exceed 35% clearing limit to 45% to construct a 9,600 square foot horse arena on 2.4 acres with a single-family residence

Summary:

A stenographic transcript was prepared for each hearing.

Ms. Jakobsen discussed written comments received by August 3, 2022 (10 days) at Central Pine Barrens Commission, 624 Old Riverhead Road, Westhampton Beach, NY 11978. The decision deadline is extended to the September 21, 2022 meeting. The motion was made by Mr. Romaine and seconded by Mr. Dale to close the public hearing. The motion was approved by the four members present.

7. Closed to Advisory Session

The motion was made by Mr. Romaine and seconded by Mr. Aguiar to close the public portion of the meeting and to move into an advisory session for the purpose of obtaining legal advice from Commission counsel and that they would not return to public session. The motion was approved by the four members present.

Meeting was adjourned at approximately 4:00 pm.

Attachments (in order of discussion)

1. Draft Commission meeting summary for June 15, 2022 (4 pages)
2. Final Commission meeting summary for June 15, 2022 (4 pages)
3. State Fiscal Year 2022-2023 CPB Commission Budget Overview & Highlights memo and attachments dated July 20, 2022 (6 pages)
4. NYWIMA update dated July 20, 2022 (1 page)
5. Education and Outreach division update dated July 2022 (2 pages)
6. Science and Stewardship division update dated July 20, 2022 (4 pages)
7. Draft resolution and attachments for the Central Pine Barrens Joint Planning and Policy Commission to Authorize the purchase of one All-Terrain Vehicle for Southampton Police with Commission violation funds dated July 20, 2022 (4 pages)
8. Final resolution of the Central Pine Barrens Joint Planning and Policy Commission to Authorize the purchase of one All-Terrain Vehicle for Southampton Police with Commission violation funds dated July 20, 2022 (1 page)
9. Draft resolution of the FOREST Funding dated 2022 (page)
10. Compliance and Enforcement division update dated January - June 2022 (2 pages)
11. Land Use division update dated July 20, 2022 (1 page)
12. Credit Program update dated July 20, 2022 (3 pages)
13. Draft referral response letter to the New York State Department of Environmental Conservation Division for Peconic River Sportsman's Club dated July 20, 2022 (2 pages); NYS DEC Email and application dated June 14, 2022 (43 pages); Clipper Herbicide document dated April 22, 2021 (9 pages); Letter and attachments from FerrellFritz and attachments dated July 20, 2022 (22 pages)
14. Final referral response letter to the NYS DEC for Peconic River Sportsman's Club dated July 20, 2022 (2 pages)
15. Expressway Drive North Warehouse Building Hardship Waiver Application and attachments dated June 13, 2022 (36 pages)
16. Email from Larry Davis to request 59 Ryerson Avenue Subdivision public hearing adjournment dated July 8, 2022 (1 page)
17. Draft referral response letter and map to the Town of Southampton ZBA for 7 Eleven gas station with convenience store dated July 20, 2022 (2 pages)
18. Final referral response letter to the Town of Southampton ZBA for 7 Eleven gas station with convenience store dated July 20, 2022 (2 pages)

Hargrave, Julie

From: Nicholas Rigano <nrigano@riganollc.com>
Sent: Wednesday, August 03, 2022 2:27 PM
To: Hargrave, Julie
Subject: Fink Country Farm April 5, 2022 CGA Hardship Waiver Application

CAUTION: This email originated from outside of SCWA. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Julie:

As discussed earlier today, the above-referenced application is withdrawn at this time.

Regards,
Nick

Nicholas C. Rigano, Esq.
RIGANO LLC
538 Broad Hollow Road
Suite 301*
Melville, New York 11747
Main: 631.756.5900
Cell: 516.241.4543
<https://www.riganollc.com/>

DRAFT

August 17, 2022



John C. Armentano
Counsel
Farrell Fritz, P.C.
100 Motor Parkway
Suite 138
Hauppauge, New York 11788

**Re: Bide-A-Wee Home Association, Inc., SCTM # 900-276-3-5.1 (now 5.2)
Central Pine Barrens Compatible Growth Area
Critical Resource Area, Core Preservation Area**

Dear Mr. Armentano:

On July 28, 2022, the Central Pine Barrens Commission office received your letter regarding the subject property. The Suffolk County Department of Health Services Notice of Incomplete Application, dated February 10, 2022, was attached to the letter. The property is in the Central Pine Barrens Core Preservation Area, Compatible Growth Area (CGA) and Critical Resource Area (CRA), in Westhampton and the Town of Southampton.

The existing developed Bide-A-Wee Home Association facility is on approximately 34 acres of the 145 acres of property owned by Bide-A-Wee. The facility is in the Compatible Growth Area and a Critical Resource Area, as defined in the Central Pine Barrens Comprehensive Land Use Plan. Bide-A-Wee and the Town of Southampton are presently coordinating a subdivision to sever the facility from the remaining property for the purposes of acquisition. The area to be acquired contains the Core Preservation Area portion which is protected in a conservation easement granted to the Commission in 2019 in exchange for the issuance of 13.36 Pine Barrens Credits.

The current proposal is to replace two existing sanitary systems associated with the facility in the southerly portion of the site, in the CGA. The proposal is reflected in plans prepared by Young and Young last dated June 1, 2022, forwarded by email from your office on August 3.

This proposal to facilitate the public acquisition of Core Preservation Area property does not constitute development activity pursuant to Environmental Conservation Law Article 57. No further review of this activity is required from this office. If any activity related to the proposal changes, please forward the updated information for commission review prior to implementation.

Thank you for your attention, and if you have any questions, please do not hesitate to contact me at (631) 218-1192.

Sincerely,
Julie Hargrave
Policy and Planning Manager

cc: Judy Jakobsen, Executive Director
John C. Milazzo, Counsel

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

624 Old Riverhead Road
Westhampton Beach, NY
11978

Phone (631) 288-1079
Fax (631) 288-1367
<https://pb.state.ny.us/>



RECEIVED

JUL 28 2022

Central Pine Barrens Joint
Planning & Policy Commission

John C. Armentano
Counsel

Direct Dial: 631.367.0719
Direct Fax: 631.367.0788
jcarmentano@farrellfritz.com

100 Motor Parkway
Suite 300
Hauppauge, NY 11788
www.farrellfritz.com

Our File No.
33799-111

July 27, 2022

BY FEDERAL EXPRESS

Ms. Julie Hargrave
Central Pine Barrens Joint Planning and Policy Commission
624 Old Riverhead Road
Westhampton, New York 11978

**Re: Bide-A-Wee Home Association, Inc.
118 Old Country Road
Westhampton, New York 11977**

Dear Ms. Hargrave:

As you know, we represent Bideawee, Inc., in connection with their proposal to transfer, by subdivision, 90+ acres of vacant pine barren land to the Town of Southampton. The Town and SCDHS have approved the subdivision.

The site is located within the Core Preservation Area. As noted in the attached letter, the SCDHS requires documentation from the Pine Barrens Commission approving this application. Could you please advise me as to whether this project meets your criteria for approval in this area and if so, please provide a letter or other appropriate documentation.

Thank you.

Very truly yours,

John C. Armentano

JCA:cr
Enclosure

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF HEALTH SERVICES

GREGSON H. PIGOTT, MD, MPH
Commissioner

BIDE-A-WEE HOME ASSOCIATION , INC.
118 OLD COUNTRY RD
WESYHAMPTON, NY 11977

February 10, 2022
Notice#: 2

BIDE-A-WEE HOME ASSOC.
Record ID: RS-21-0107

Tax Map: 0900276000300005002

Notice of Incomplete Application

BIDE-A-WEE HOME ASSOCIATION , INC.,

This office has reviewed your application for existing or proposed sewage disposal and/or water supply systems, or your application for a subdivision for the above referenced project. The following will be required prior to any further processing of the application for approval to construct:

- (1) It appears that buildings 2 & 3 consist of Large Capacity Cesspools (LCCs) which are banned by the EPA as of 2005. Therefore, before the subdivision can be approved, the existing sewage disposal systems for buildings 2 & 3 must be upgraded. Submit a commercial application, on the entire lot, (WWM-004 & WWM-201) to upgrade these systems. After the system is installed, the subdivision maps should be updated to show the new locations.**
- (2) Certifications provided for building 4 appear to show only one (1) system; whereas, the previous commercial approval (C09-97-0038) and provided subdivision maps show three (3) separate systems. Field verify & submit an updated Certification if necessary.**
- (3) Clarify if lot 2 will remain as undeveloped open space dedicated to the Town of Southampton. If so, denote on maps & update allowable flow calculations accordingly. Covenant language for open space TBD if necessary upon resubmission.**
- (4) Revise typical lot layout provided to show commercial setbacks.**
- (5) On test hole, indicate elevation of highest expected groundwater. Revise typical lot layout to be in accordance to highest expected groundwater if necessary.**
- (6) Remove reference to old filed lot lines (i.e. lot 1, 2, 3, etc.) for clarity.**
- (7) The Planning Board Resolution provided indicates that the property is located within the Pine Barrens Core Preservation Area. Prior to subdivision approval, submit documentation from the Pine Barrens Commission allowing approval of this application.**
- (8) Submit a minimum of four (4) revised maps with original signatures/seals and the design professional statement signed/dated.**



Please note that a review of the additional information requested may result in the need to modify the proposed sewage disposal and/or water supply systems or proposed subdivision. Please do not hesitate to call (631) 852-5700 with any questions.

Regards,
Adrian Casillas

CC:
THOMAS C WOLPERT



DRAFT

August 17, 2022



Ankita Rathi, AICP, ENV SP
Suffolk County Dept. of Economic Development and Planning
100 Veterans Memorial Highway, 11th Floor
Hauppauge, NY 11788

RE: Suffolk County 2020 Hike and Bike Master Plan
Central Pine Barrens

Dear Ms. Rathi:

On July 29, 2022, the Central Pine Barrens Commission office received an email of planned improvements to roadways for the referenced project in the Central Pine Barrens Core Preservation Area and Compatible Growth Area.

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

The proposal is in the conceptual planning phase and once this phase is complete, Suffolk County will seek cost estimates and then funding for the design. The plans identify proposals in two heavily forested corridors in the Central Pine Barrens Core Preservation Area on Bellows Pond Road and County Route 51, both of which are identified as Scenic Resources in Volume 2 of Central Pine Barrens Comprehensive Land Use Plan.

The proposed widening and improvements may involve the removal of and disturbance to existing natural pine barrens trees and vegetation. Please provide for Commission review the locations and amount of disturbance for the project. The project should accommodate paths in existing paved roadways while avoiding disturbance to existing pine barrens habitat and scenic corridors.

Please forward the relevant information for the Commission's review at your convenience and in advance of final plans for the Commission to have the opportunity to comment on the project. The project must be consistent with the Long Island Pine Barrens Protection Act of 1993 and in conformance with the Commission's Comprehensive Land Use Plan.

New York State Environmental Conservation Law Article 57 Section 57-0123.3(a) states:

no application for development within the Central Pine Barrens area shall be approved by any municipality or county or agency thereof or the commission, and no state approval, certificate, license, consent, permit, or financial assistance for the construction of any structure or the disturbance of any land within such area shall be granted, unless such approval or grant conforms to the provisions of such land use plan;

624 Old Riverhead Road
Westhampton Beach, NY
11978

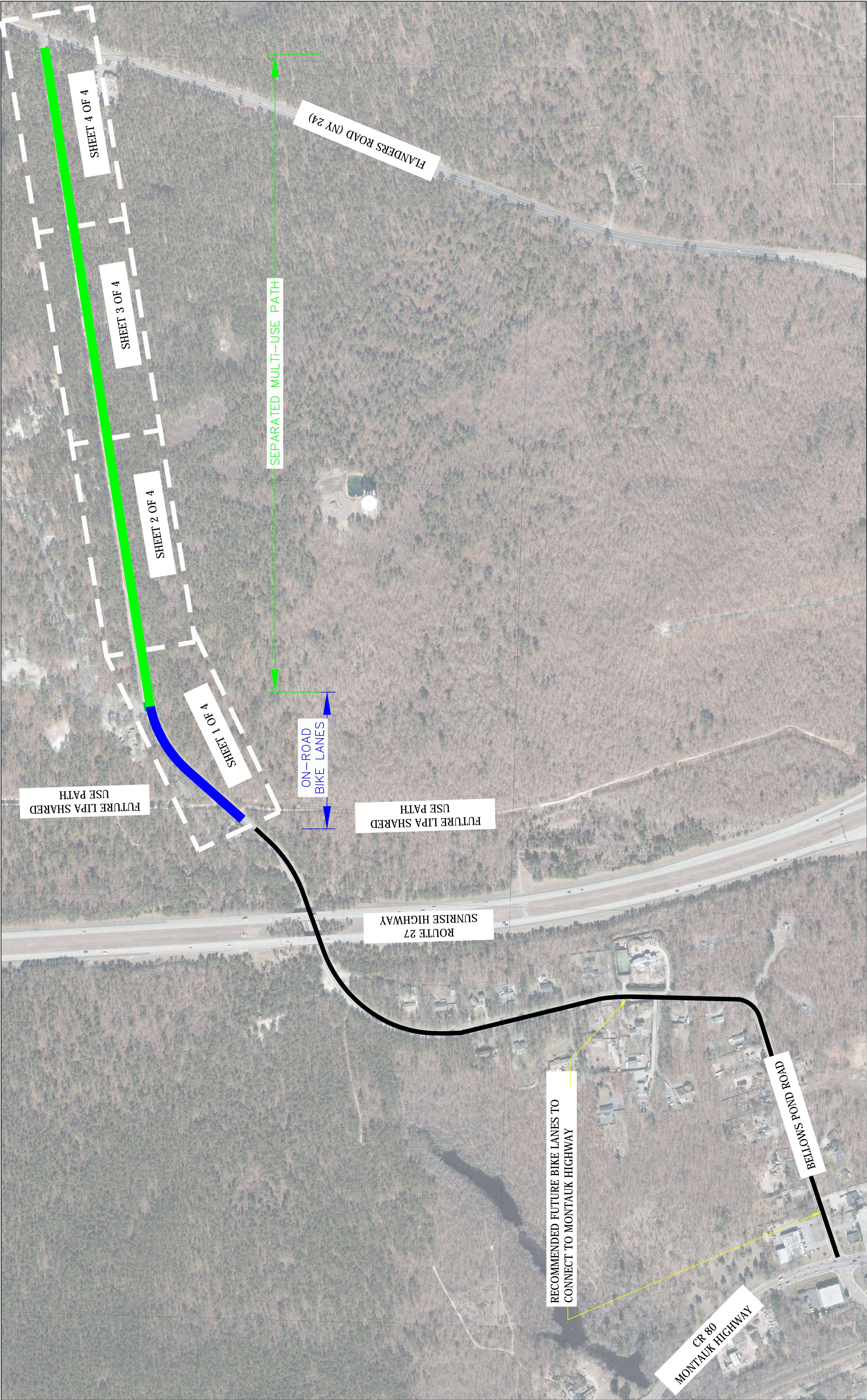
Phone (631) 288-1079
Fax (631) 288-1367

<https://pb.state.ny.us/>

Thank you for your attention. Please contact this office with any questions.

Sincerely,
Julie Hargrave
Policy and Planning Manager

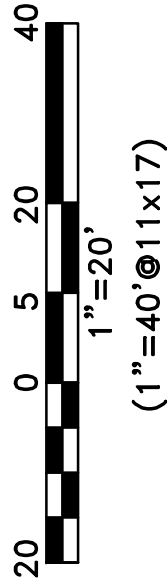
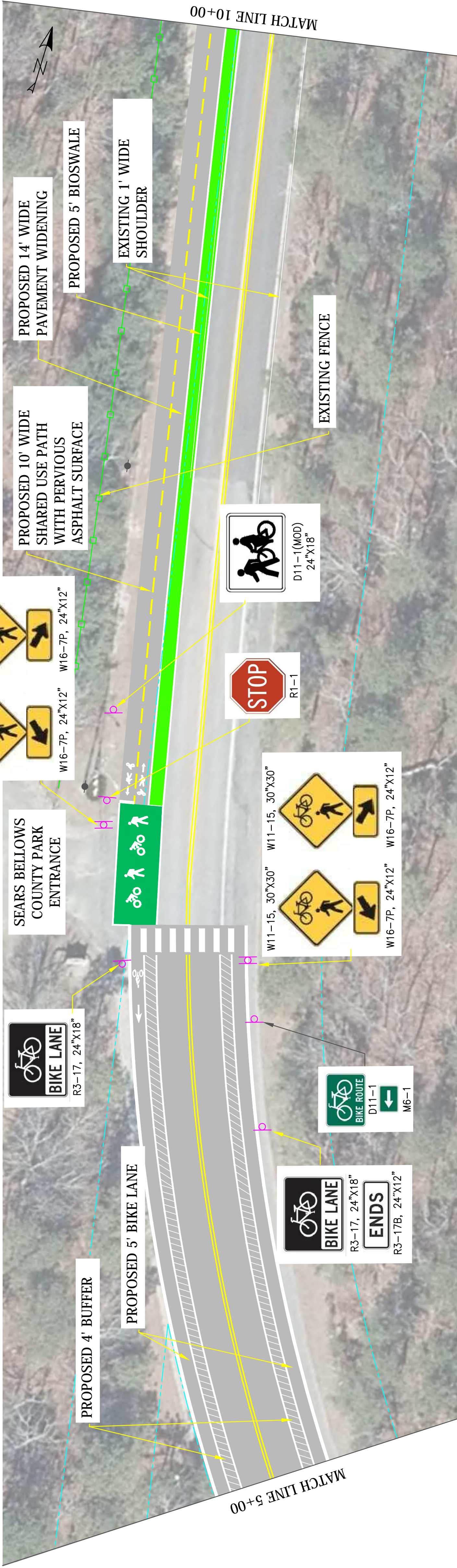
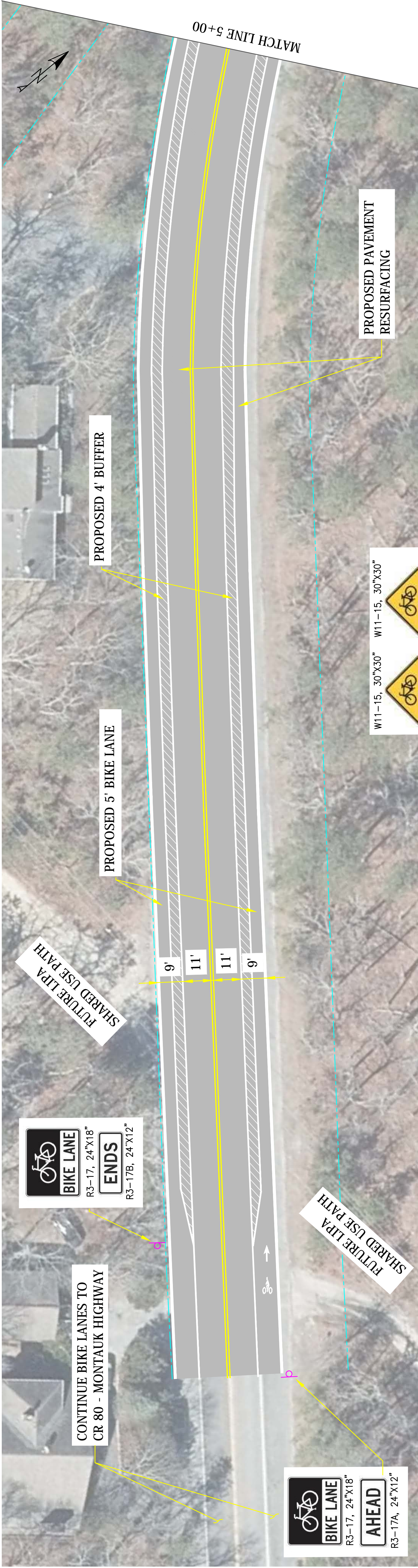
cc: Judith Jakobsen, Executive Director
Jonathan Keyes, Suffolk County Department of Economic Development and Planning



LEGEND:

PAVEMENT MARKING ALTERATIONS

APPROXIMATE HIGHWAY BOUNDARY



N|V|5

DATE: JUN 22

CONCEPTUAL PLAN

ROUTE 6 - BELLOWS POND ROAD - SHEET 1 OF 4

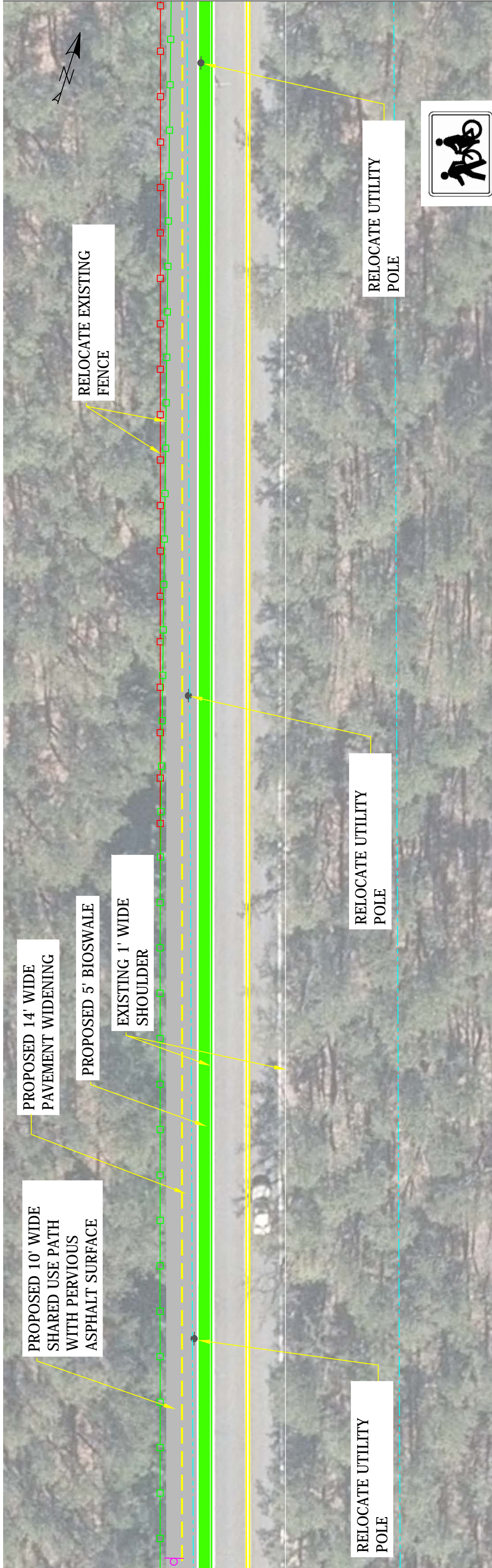
SCDP PEDESTRIAN AND BIKE PROJECTS

SUFFOLK COUNTY NEW YORK

LEGEND:

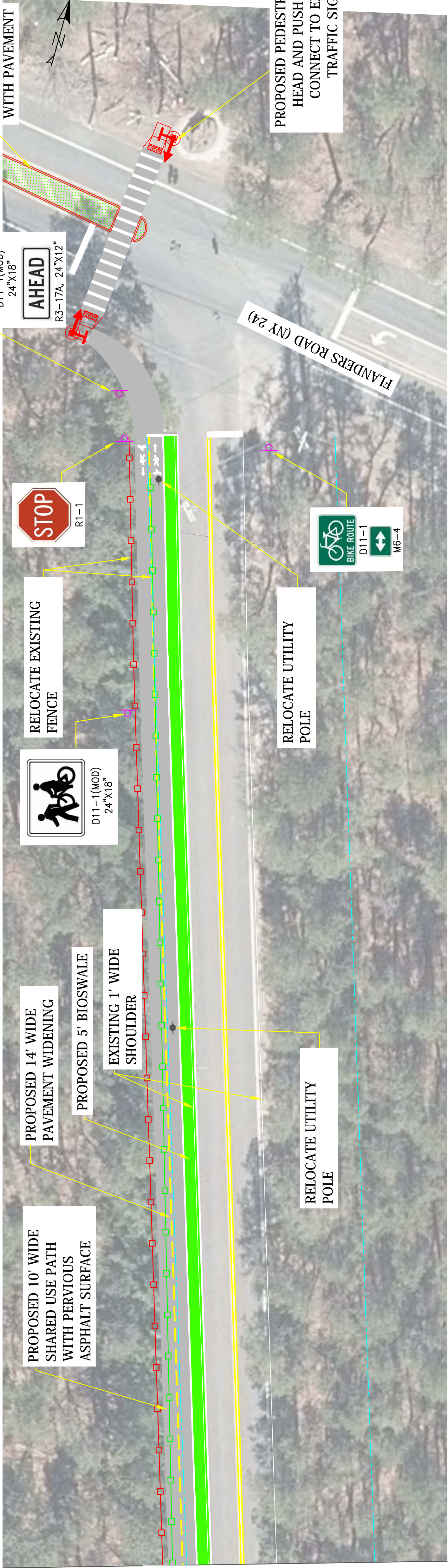
PAVEMENT MARKING ALTERATIONS

APPROXIMATE HIGHWAY BOUNDARY



MATCH LINE 35+00

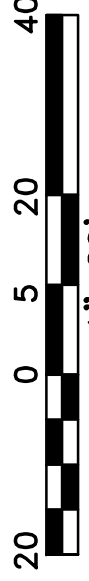
MATCH LINE 30+00



MATCH LINE 35+00

50' RAISED REFUGE ISLAND, TAPER TO FLUSH WITH PAVEMENT

PROPOSED PEDESTRIAN SIGNAL HEAD AND PUSH BUTTON. CONNECT TO EXISTING TRAFFIC SIGNAL.



CONCEPTUAL PLAN

ROUTE 6 - BELLOWS POND ROAD - SHEET 4 OF 4

SCEDP PEDESTRIAN AND BIKE PROJECTS

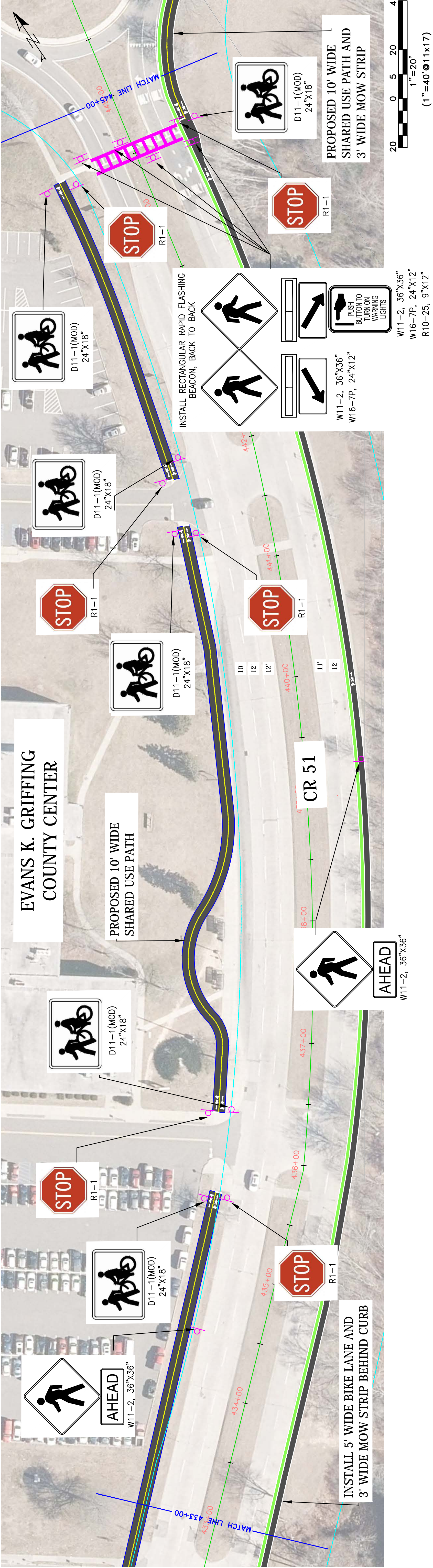
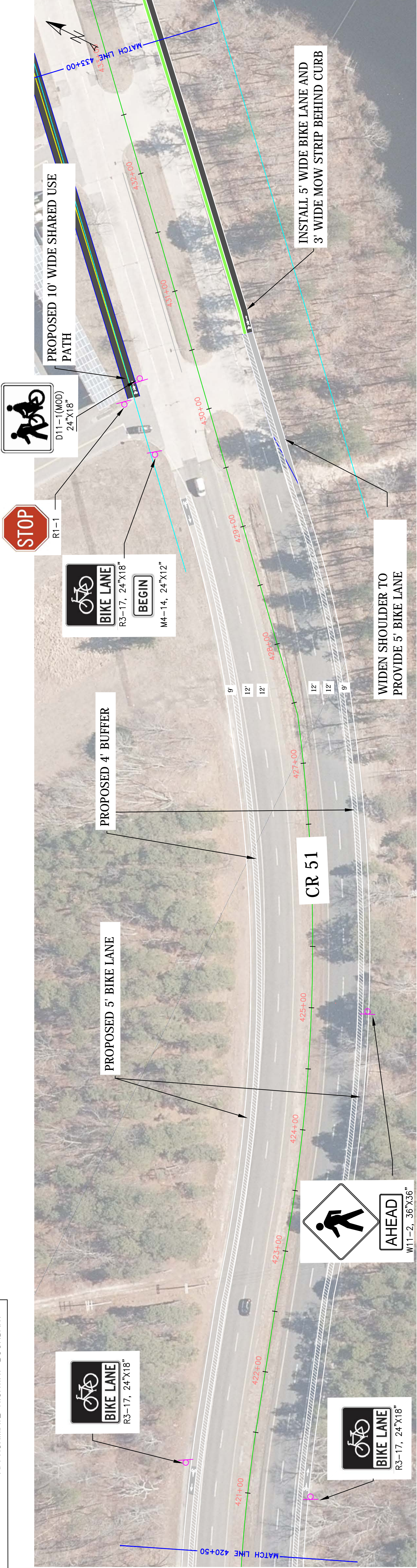
SUFFOLK COUNTY NEW YORK



LEGEND:

PAVEMENT MARKING ALTERATIONS

APPROXIMATE HIGHWAY BOUNDARY



LEGEND:

PAVEMENT MARKING ALTERATIONS

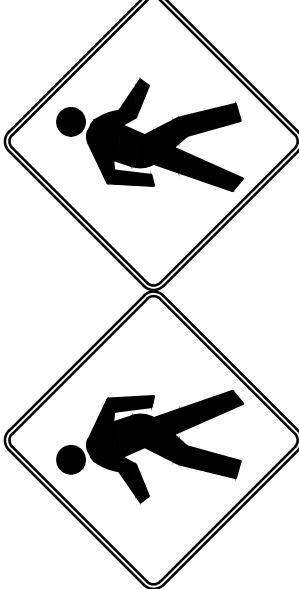
APPROXIMATE HIGHWAY BOUNDARY

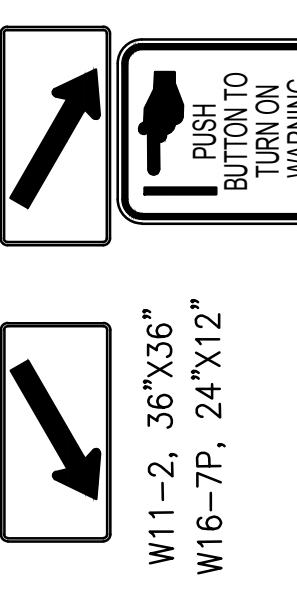
PROPOSED 10' WIDE
SHARED USE PATH AND
3' WIDE MOW STRIP

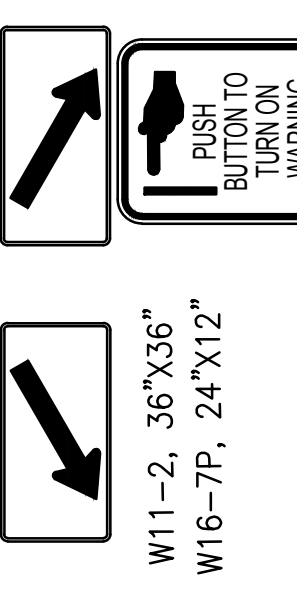


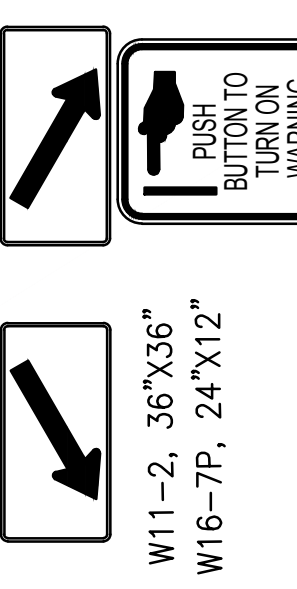


AHEAD
W11-2, 36"x36"









INSTALL RECTANGULAR RAPID FLASHING
BEACON, BACK TO BACK

W11-2, 36"x36"
W16-7P, 24"x12"
R10-25, 9"x12"

EXISTING CONNECTION TO GRANGABEL PARK
& ROUTE 2 - PECONIC AVENUE

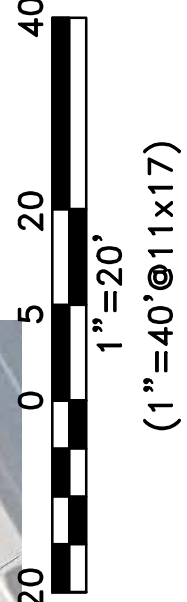
GRANGABEL PARK

ROUTE 2 - PECONIC AVENUE

NUGENT DRIVE

AHEAD

W11-2, 36"x36"



CONCEPTUAL PLAN

ROUTE 3 - CR 51 - MORICHES-RIVERHEAD ROAD - SHEET 19 OF 21
SCEDP PEDESTRIAN AND BIKE PROJECTS
SUFFOLK COUNTY NEW YORK



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Central Pine Barrens Commission Public Hearing

August 17, 2022

Remote Via Zoom Format



**Expressway Drive North
Compatible Growth Area Hardship Waiver application and
Development of Regional Significance Application
West of Sills Road, Yaphank, Town of Brookhaven
SCTM #: 200-662-2-5.16**

List of Staff Exhibits

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

A. Draft Staff Report

B. Aerial of the Project Site and Study Area

C. Photographs of the Project Site

D. Overall Site Plan prepared by Key Civil Engineering last dated May 3, 2022

E. Previous Development Overlay Exhibit with slopes dated May 17, 2022
prepared by Key Civil Engineering

F. Applicant's hardship and review Standards and Guidelines

G. Previous Development Overlay Exhibit prepared by Key Civil Engineering
dated May 17, 2022

H. Silver Corporate Park decision and map

624 Old Riverhead Road
Westhampton Beach, NY
11978

Phone (631) 288-1079
Fax (631) 288-1367
<https://pb.state.ny.us/>

Exhibit A

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Draft Staff Report

Central Pine Barrens Joint Planning and Policy Commission
for the Commission meeting of August 17, 2022

PROJECT NAME: Expressway Drive North Compatible Growth Area
Development of Regional Significance and
Compatible Growth Area Hardship Waiver

APPLICATION TIMELINE:

- 6/18/22 Received application materials
- 7/20/22 Scheduled public hearing
- 8/17/22 Public hearing
- 10/10/22 - 120-day decision deadline

OWNER: Silver Corporate Park, LLC

APPLICANT: WF Industrial XII LLC represented by Nelson Pope Voorhis

PROJECT SITE LOCATION: West of Sills Road, LIE North Service Road,
Yaphank, Town of Brookhaven

SUFFOLK COUNTY TAX MAP #: 200-662-2-5.16

PROJECT SITE AREA: 71.41 acres

PROJECT: development of three warehouse buildings
549,942 square feet (12.6 acres) and related improvements

ZONING DISTRICT: Light Industrial Zoning District
(200,000 square foot minimum lot area)

SEQRA: Type I Action

This staff report is Exhibit A.

EXISTING CONDITIONS

The 71.41 acre project site is wooded and undisturbed with natural pine barrens vegetation and habitat. See Exhibit B for an aerial of the Project Site and surrounding area. See Exhibit C for photographs of the site.

The property is bounded by the LIE North Service Road on its south side, a composting facility to the west, naturally wooded property to the north, and residentially developed properties to the east.

PROPOSED PROJECT AND APPLICANT REQUEST

The applicant proposes to develop three warehouses and associated infrastructure. See Exhibit D for a copy of the Overall Site Plan prepared by Key Civil Engineering last dated May 3, 2022. The breakdown of facilities and structures on the 71.45 acres site includes:

- Building A: 203,548 square feet (4.67 acres)
- Building B: 176,670 square feet (4.06 acres)
- Building C: 169,724 square feet (3.90 acres)
- Total: 549,942 square feet (12.62 acres)

- Two curb cuts
- Recharge basin: approximately 2.2 acres

- Area of paving: 20.5 acres
- Parking stalls: 1,375 spaces plus 608 landbanked stalls
- Grass: 3 acres

- The project disturbs 42,829 square feet (0.98 acre) of steep slopes 10% grade or greater; the site contains 15.36 acres of steep slopes over 10% grade

- Clearing and disturbance to natural vegetation: 41.3 acres (58%)
- Open space: 30.15 acres (42%)

No areas of the site are cleared except for the powerline right of way. No restoration is proposed.

The proposal achieves at least one Development of Regional Significance (DRS) threshold due to the maximum size or buildout of the proposed development of 549,942 square feet. As a DRS, both the Standards and Guidelines in the Central Pine Barrens Comprehensive Land Use Plan (the Plan) apply to the project.

In addition, the applicant requests a CGA Hardship Waiver for proposed disturbance and removal of approximately 33,981 square feet of slopes between 10 and 15% grade and 8,898 square feet of slopes exceeding 15% grade. A total of 0.98 acres of slopes exceeding 10% grade will be removed.

See Exhibit E for the Slope Analysis.

PROJECT SITE HISTORY

The site was created out of a 192 acre project site. It was the subject of a stipulation of settlement with the Town of Brookhaven that occurred around 2006. Approximately 120 acres of the 192 acre site have been protected as open space.

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Two prior Development of Regional Significance applications were proposed on the property: American Tissue and Silver Corporate Park:

- American Tissue was withdrawn prior to a decision.
- Silver Corporate Park (SCP) was granted a waiver and approval by the Commission on June 17, 2020, however, it was never constructed.

CENTRAL PINE BARRENS STATUS

The Project constitutes development pursuant to New York State Environmental Conservation Law (ECL) §57-0107(13)(b) and (c):

13. "Development" shall mean the performance of any building activity or mining operation, the making of any material change in the use or intensity of use of any structure or land and the creation or termination of rights of access or riparian rights. Without limitation, the following activities or uses shall be taken for the purposes of this article to involve development as defined in this subdivision:

(b) a material increase in the intensity of use of land or environmental impacts as a result thereof;

(c) commencement of mining, excavation or material alteration of grade or vegetation on a parcel of land excluding environmental restoration activities;

The Central Pine Barrens Comprehensive Land Use Plan (the Plan) defines Developments of Regional Significance in Chapter 4, Section 4.5.5.1. The proposed project is defined in subsection #1 of the Plan, which states:

A commercial, industrial or office development project exceeding 300,000 square feet of gross floor area, or an addition to an existing commercial, industrial or office development where the addition is 100,000 square feet or more and that addition causes the total square footage to exceed 300,000 square feet.

SEQRA, REQUIRED APPROVALS AND PERMITS

- State Environmental Quality Review Act (SEQRA). The proposal is classified as a Type I Action. Brookhaven Town Board adopted Negative Declaration on March 26, 2015 and the Planning Board adopted a Negative Declaration on January 13, 2020. The Town Department of Environmental Protection memo dated June 6, 2022 concluded, "The proposed site plan is found to be less intensive than that of the previously considered proposal and allows for a more contiguous, orderly, and compact design. No further SEQRA review is necessary or warranted."
- New York State Office of Parks, Recreation and Historic Preservation.
- Suffolk County Department of Health Services Article 6 conformance and approval.
- New York State Department of Transportation permit approvals.

- Town of Brookhaven permits and approvals.
- New York State Department of Environmental Conservation Stormwater Pollution Prevention Plan permit review and approval
- New York State Department of Environmental Conservation review of rare, threatened, and endangered species and any regulations in effect for the protection of species and habitat on the project site.

SITE DESCRIPTION

This section contains a general description of the features on the Project Site including natural, scenic, and cultural resources.

Existing Condition and Land Use: Undeveloped, wooded with natural and undisturbed pine barrens vegetation and habitat. An 80 foot wide LIPA overhead power line crosses the property and is maintained by a permanent utility easement.

Vegetation: The Project Site is a pitch pine-oak heath woodland ecological community type. No disturbance exists on the property and it exhibits a healthy dispersion of large pitch pine trees and oak trees and dense heath understory.

Historical aerial photography from roughly 72 years ago, 2016 back to 1947, reveals the site has never been the subject of large scale disturbance and has remained the intact terrestrial woodland habitat as it is today. It contains large diameter pitch pine trees dispersed in the landscape, with smaller scarlet and other oak tree species, an understory of heath shrubs (e.g., huckleberry), and natural leaf litter and groundcover including spotted wintergreen and trailing arbutus.

Rare, Endangered, & Threatened Species and Species of Concern:

The New York Natural Heritage Program State-listed Animals report, by letter dated February 12, 2019 (for the project Silver Corporate Park), identified the Northern Long-eared Bat, a Federal and State-listed Threatened species, been documented within one mile of the project site.

The letter states, “Individual animals may travel 1.5 miles from documented locations. The main impact of concern is the cutting and removal of potential roost trees.” This occurrence is expected to affect the timing of tree cutting on the project site and limit cutting activity to a window from November through February, avoiding the period from March through October of a given year. Coordinate with NYSDEC to confirm prior to disturbance. Confirmation was sent to NYNHP for the current proposal. Awaiting response.

New York State Breeding Bird Atlas

The New York State Breeding Bird Atlas (BBA) lists 71 species exhibiting breeding behavior including 40 confirmed breeder species in the survey block, 6652D, that covers the Project Site (note: survey block is 3 x 3 miles). The survey

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includes a species listed as Special Concern, the Cooper's Hawk. Other species surveyed in this BBA block, for example, the blue-winged warbler, is on the NYSDEC's list of Species of Greatest Conservation Need (SGCN).

Wetlands: No wetland habitat is identified in the application materials.

Wild, Scenic & Recreational Rivers: The Project Site is not within the jurisdictional boundary of the New York State Department of Environmental Conservation (NYSDEC) Wild, Scenic and Recreational Rivers Program.

Hydrology: Hydrogeologic Zone III. Groundwater flow is generally in a southeasterly direction in the direction of the Carmans River. The applicant's test hole data shows fine to medium to coarse sands to a depth of at least 30 feet and no groundwater encountered at that depth.

Topography/Elevation: The Project Site contains natural steep slopes 10% or greater including 15%, 20% and up to 60% natural grade. See the slope analysis map in Exhibit E.

Soils: Carver and Plymouth sands (CpC), 3 to 15 percent slopes and PIA Plymouth loamy sand, 0 to 3 percent slopes, and Carver and Plymouth sands (CpA), 0 to 3 percent slopes. (USDA Natural Resources Conservation Service). EAF also lists Plymouth loamy sands, Riverhead sandy loam, and Haven loam.

Cultural/Archeological Resources: By letter dated June 6, 2022, the New York State Office of Parks, Recreation, and Historic Preservation indicated no potential impact on archaeological and/or historic resources listed in or eligible for the New York State and National Register of Historic Place.

Scenic Resources: The Scenic-related Guidelines in Volume 2 of the Plan refer to views from the Long Island Expressway.

Land Use and Zoning in the Study Area

Land uses were identified within the immediate vicinity called the Study Area. The project site is at the center of the Study Area that is a one-half mile radius in all directions from the site and contains approximately 450 to 500 acres of area.

In the Study Area, north of the Town's public land, land uses include residentially developed properties; public land and/or protected land east of Sills Road; commercial and industrial uses including the Brookhaven Rail Terminal south of the LIE, which is outside of the Central Pine Barrens boundary; and a composting facility and residential land uses to the west.

The Core Preservation Area is situated on the east side of Sills Road. As of 2014, land in the watershed of Carmans River was added to the Core and CGA. The area known as "Enchanted Forest" was placed in the Core and protected through the Pine Barrens Credit

Program with the issuance of Pine Barrens Credits to the owner in exchange for a conservation easement(s).

Zoning

The Study Area zoning is comprised mostly of residential zoning districts including A1 Residence District to the west, A2 and A10 Residence districts to the north; A1, A2 and A5 on Sills Road and in the eastern portion of the Study Area. L1 Industrial zoning south of the LIE, and outside of the Study Area, is reflective of land uses in that portion of the Study Area.

Other DRS Applications

Eight Development of Regional Significance applications have been reviewed since 1993. Six were approved, one was withdrawn (American Tissue, 2000) and one was disapproved, Tall Grass in Shoreham (2008). The approved applications include:

- Suffolk County Center (2005)
- Brookhaven Walk (2007)
- Artist Lake Plaza (2011)
- The Meadows at Yaphank (2011)
- Silver Corporate Park (2020)
- RD Industrial (2022)

WATER RESOURCES

The project does not conform with Article 6 of the Suffolk County Sanitary Code. The as-of-right sanitary flow is approximately 21,423 gallons per day. The project will generate 21,998 gpd. Therefore, the project exceeds the flow allowance by 575 gpd.

The Project includes construction of individual on site sanitary systems. No alternative or additional treatment system is proposed. The Applicant should coordinate with the Health Department on requirements to satisfy Article 6 and the additional wastewater flow and if an innovative alternative treatment system is necessary. The applicant is encouraged to redeem Pine Barrens Credits to mitigate the impact on groundwater resources from excess wastewater generated by the project.

COMPATIBLE GROWTH AREA EXTRAORDINARY HARDSHIP CRITERIA

The applicant is required to demonstrate Hardship in accordance with ECL §57-0123(3)(b) and the criteria contained in Town Law §267-b. See Exhibit F for the applicant's hardship petition. The applicant submits a hardship waiver for non-conformance with guidelines to protect steep slope topography.

ECL §57-0123(3)(b)

“The commission by majority vote is also authorized to waive strict compliance with such plan or with any element or standard contained therein, upon finding that such waiver is necessary to alleviate hardship for development proposed by any person, the state or a public corporation in the compatible growth area according to the conditions and findings of hardship pursuant to subdivision nine of section 57-0121 of this article, is consistent with the purposes and provisions of this article and would not result in substantial impairment of the resources of the Central Pine Barrens area.”

§57-0121(9)

“If the proposed development is consistent with the commission's interim goals and standards, the commission shall approve the development and may include conditions for approval. If the applicant seeks an exemption based upon a demonstration of hardship, the commission may approve development in the compatible growth area upon the finding that such interim goals and standards caused an unnecessary hardship. In making such finding the commission shall consider the criteria for a use variance pursuant to section two hundred sixty-seven-b of the town law. The commission must make a decision within one hundred twenty days of receipt of a complete application. If the commission fails to make a decision within one hundred twenty days, the development shall be deemed to be approved by the commission, unless extended by mutual agreement of the applicant and commission.”

Town Law Section §267-b

“(b) No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;*
- (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;*
- (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and*
- (4) that the alleged hardship has not been self-created.”*

“(c) The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.”

COMPREHENSIVE LAND USE PLAN REVIEW OF STANDARDS AND GUIDELINES

A project classified as a DRS must conform with the Standards and Guidelines for development contained in Chapter 5 of the Plan. The Staff's review of the project's conformance with Standards and Guidelines is provided below. Where additional information is needed, time is also needed to review supplemental or revised materials and information submitted in response. The project's conformity with Standards and Guidelines will be deferred until such time as additional information is provided by the applicant.

Review of Standards and Guidelines by Commission Staff for Expressway Drive North
Compatible Growth Area Hardship and Development of Regional Significance Application

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Standard (S)/Guideline (G)		Explanation and Document Page Reference (attach additional sheets if necessary)
S 5.3.3.1.1	Suffolk County Sanitary Code Article 6 compliance	<p>The project does not conform with this standard. The Project exceeds the as of right flow by 575 gallons per day.</p> <p>Individual on site septic systems are proposed. The project will be required to conform to the Suffolk County Sanitary Code Article 6 regulations.</p> <p>Explain how this will be mitigated and if any special permits or exceptions are required from the Health Department. Will this require the redemption of Pine Barrens Credits?</p>
S 5.3.3.1.2	Sewage treatment plant discharge	No sewage treatment plant or alternative treatment system is proposed.
G 5.3.3.1.3	Nitrate-nitrogen goal of 2.5 mg/l	Conforms. The project site is in the watershed and in the groundwater contributing area of the Carmans River.
S 5.3.3.2.1	Suffolk County Sanitary Code Articles 7 & 12 compliance	The project must conform to the Sanitary Code regulations for industrial and commercial uses. Proposed uses will be required to conform.
S 5.3.3.3.1	Significant discharges and public supply well locations	Identify the nearest public drinking water supply well and potential impacts if any.
G 5.3.3.3.2	Private well protection	<p>No public water exists in the project site location.</p> <p>Public water would need to be constructed and extended from Sills Road.</p>
S 5.3.3.4.1	Nondisturbance buffers	<p>No wetlands are on site or in the immediate vicinity.</p> <p>The plan shows a 100 foot setback to the arterial roadway that will provide partial natural screening of the property from the LIE. The setback is interrupted by two curb cuts where previously in SCP only one curb cut was proposed. See Exhibit G for the comparison map.</p> <p>The natural areas in the buffer to the LIE North Service Road should be protected in a Declaration of Covenants and Restrictions. This will provide natural screening to the project to protect not only the roadside but the uses in the development, from noise and dust from the highway.</p>
S 5.3.3.4.2	Buffer delineations, covenants and conservation easements	<p>Open space will be protected in a covenant.</p> <p>The roadway buffer should be protected in the covenant.</p> <p>Split rail or other wildlife friendly fencing should be installed on the boundary of the cleared area and open space. Temporary fencing should be installed prior to clearing and maintained during construction. Require inspection of fencing prior to disturbance.</p>
S 5.3.3.4.3	Wild, Scenic and Recreational Rivers Act compliance	N/A

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G 5.3.3.4.4	Additional nondisturbance buffers	Not applicable
S 5.3.3.5.1	Stormwater recharge	<p>The project will be required to retain stormwater on the project site. A Stormwater Pollution Prevention Plan will be required.</p> <p>A recharge basin is proposed.</p>
G 5.3.3.5.2	Natural recharge and drainage	<p>A recharge basin over 2 acres will be utilized for drainage.</p> <p>It will consume a significant area and requires the removal of considerable native vegetation to the detriment of the site's ecology and aesthetics.</p> <p>Consider alternative recharge and drainage structures in lieu of the development of a large recharge basin to capture drainage from developed surfaces or explain why this is not feasible.</p>
G 5.3.3.5.3	Ponds	<p>Ponds should only be created if they are to accommodate stormwater runoff, not solely for aesthetic purposes. No ponds for aesthetic purposes are proposed at this time.</p> <p>None should be permitted for aesthetic purposes as per the Guideline.</p>
G 5.3.3.5.4	Natural topography in lieu of recharge basins	The project utilizes a recharge basin to manage stormwater.
G 5.3.3.5.5	Soil erosion and stormwater runoff control during construction	<p>The project is required to employ stormwater controls and protect adjacent areas from runoff during construction.</p> <p>The project is required to conform with stormwater regulations.</p> <p>The applicant must prepare for review and approval a Stormwater Pollution Prevention Plan by the Town Engineer and obtain a SPDES permit.</p> <p>Protect natural areas from encroachments with snow fencing and employ erosion control measures prior to disturbance.</p>
S 5.3.3.6.1	Vegetation Clearance Limits	The project conforms with the clearing limit of 65%. The Project will clear 1.59 acres more than SCP but is still in conformance with the standard. The project will clear 58%, 41.30 acres, and retain 30.15 acres (42%) of existing natural vegetation.
S 5.3.3.6.2	Unfragmented open space	Open space is unfragmented to the greatest extent practicable to prioritize protection of natural pine barrens habitat and steep slopes.
S 5.3.3.6.3	Fertilizer-dependent vegetation limit	Conforms, 4.2%
S 5.3.3.6.4	Native Plantings	<p>Retain existing natural vegetation, reduce the three acres of grass to minimize irrigation and maintenance in an industrial development site.</p> <p>The project proposes 188 trees and 599 shrubs all of which will be imported landscape material. The site presently is entirely wooded with trees and shrubs. Consider minimizing disturbance and landscape with the existing native plants on site to minimize the requirements of irrigation and maintenance for landscaping on an industrial site.</p> <p>Transplant existing natural material to use in landscaping where possible.</p>

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S 5.3.3.7.1	Special species and ecological communities	The Natural Heritage Program reported the presence of the Federal and State-listed Threatened species, Northern Long-eared Bat. No clearing may be permitted to protect the species and its habitat in the window of March through October, with a clearing window from November through February. Coordinate with NYSDEC
G 5.3.3.8.1	Clearing envelopes	The project maximizes development on slopes less than 10% grade
G 5.3.3.8.2	Stabilization and erosion control	Approximately 40 acres of development will occur on slopes greater than 10%.
G 5.3.3.8.3	Slope analysis	<p>Slope analysis provided. The Project will remove 40.32 acres of slopes less than 10% grade.</p> <p>A total of 0.98 acre of slopes greater than 10% grade will be removed including:</p> <ul style="list-style-type: none"> • 22,981 square feet (0.78 acres) of slopes between 10 % and 15% grade • 8,898 square feet (0.20 acres) of slopes in excess of 15% grade <p>For reference, SCP removed 18,948 square feet (0.43 acre) of slopes greater than 10% grade, which is less than the proposed amount. See Exhibit H for SCP decision and slope impacts.</p> <p>The application states SCP would have disturbed a total of 1.45 acres of steep slopes greater than 10% grade. Please explain since this appears to conflict with the SCP decision and the site's natural slopes are presently unchanged since SCP was proposed. See Exhibit F for the slope discussion excerpt in the hardship application.</p>
Standard (S)/Guideline (G)		Explanation and Document Page Reference <i>(Attach additional sheets if necessary)</i>
G 5.3.3.8.4	Erosion and sediment control plans	<p>Stormwater plans must be prepared and approved prior to disturbance.</p> <p>Check erosion and sediment control plans where the project removes slopes greater than 15% grade.</p>
G 5.3.3.8.5	Placement of roadways	<p>The project minimizes traversing steep slopes greater than 10% when evaluated on a proportional basis.</p> <p>In the road alignment, consider retaining existing large trees as street trees and maneuver around them where feasible.</p>
G 5.3.3.8.6	Retaining walls and control structures	<p>Retaining walls are planned.</p> <p>Where feasible, utilize naturally vegetated slopes as opposed to hard retaining wall structures which will retain natural habitat and minimize erosion and stormwater runoff.</p>
S 5.3.3.9.1	Receiving entity for open space dedications	A covenant is proposed to protect the open space.
G 5.3.3.9.2	Clustering	The project has been designed to cluster development and open space to protect habitat and steep slopes.

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G 5.3.3.9.3	Protection of dedicated open space	The area to remain natural will be protected as open space. The covenant should confirm that no additional density/intensity may be generated by the open space.
G 5.3.3.10.1	Best management practices	N/A
G 5.3.3.11.1	Cultural resource consideration	<p>This guideline identifies protection measures should be provided for passive hiking trail corridors to connect to other open spaces and protected lands</p> <p>The site is visible from the Long Island Expressway. It is important to keep the natural viewshed in this highway corridor to preserve the resources and character of the Central Pine Barrens</p> <p>The second proposed easterly curb cut interrupts this naturally vegetated buffer. Consider one ingress/egress point.</p>
G 5.3.3.11.2	Inclusion of cultural resources in applications	This Guideline suggests development proposals should note established recreation trails and trail corridors, scenic corridors, roads, vistas, and viewpoints in undisturbed portions of the roadside of the LIE. Protect the viewshed in this highly visible corridor and presently undisturbed roadside on the north side of northern service road to the LIE.
G 5.3.3.11.3	Protection of scenic and recreational resources	<p>Reduce the number of curb cuts to one on the west side of the site. This will protect the roadside character and visually shield the project with the existing natural pine barrens vegetative buffer.</p> <p>Signage must be in keeping with the character of the area including size, color palette, lighting, height and material. Submit all signage for review.</p>
G 5.3.3.11.4	Roadside design and management	<p>Two curb cuts disrupt the presently uninterrupted naturally vegetated buffer on the roadfront as separate ingress and egress points.</p> <p>The SCP project required only one for 12 buildings; the proposal has two curb cuts. It is not clear why two are necessary and it should be reduced back to one.</p> <p>Additional design standards are provided in Volume 2 of the Plan if guidance is needed.</p> <p>The site plan refers to a monument sign at the easterly curb cut. Please forward details of this sign for review.</p> <p>No excessively large monument signs will be permitted. The applicant must submit the sign plans to the commission for review. Specifications including height, size, color, lighting, materials, etc. shall be in keeping with the character of the Central Pine Barrens.</p>
G 5.3.3.12.1	Commercial and industrial compliance with Suffolk County Sanitary Code	The Project and proposed uses must conform with the requirements of the Suffolk County Sanitary Code.

SUMMARY OF DISCUSSION ITEMS

Additional items for discussion are summarized below. It is suggested the applicant clarify and provide additional information on the slope discrepancy and achieving conformance with items noted herein. It is recommended that the hearing record remain open until the relevant information is received.

- The project does not conform at this time with Article 6 of the sanitary code.
- The applicant is required to prepare the SWPPP and obtain a SPDES permit prior to site disturbance.
- The applicant seeks a waiver to remove steep slopes. The project removes 0.98 acre of steep slopes greater than 10% grade. The Silver Corporate Park decision granted a waiver to remove 18,947 square feet (0.43 acre). The application indicates SCP would have removed 1.45 acres. Please explain this discrepancy.

The applicant needs to address conformance with all Standards and Guidelines at this time when the whole project is under review rather than later when each separate building is developed. This will also ensure that no impermissible segmentation occurs and that the environmental review is in conformance with Section 617.3(g), General Rules, of the SEQRA regulations. Some specific items that need to be addressed or established at this time and where additional information or analyses are necessary include:

1. Explain if there is a slope disturbance discrepancy when comparing the slope impacts of the Silver Corporate Park project and the subject application.
2. Sanitary Wastewater
 - a. Project not in conformance with Article 6 regulations.
 - b. Is mitigation proposed for 575 gpd of excess flow?
 - c. Will Pine Barrens Credits be redeemed for the excess flow?
 - d. Is an innovative alternative treatment system required by the Health Department?
3. Removal of existing natural vegetation and habitat, open space covenants and restrictions
 - a. Site design and curb cuts
 - i. Explain why are two curb cuts needed for 3 industrial use buildings. Only one ingress and egress point was needed for 12 buildings in SCP.
 - ii. If two curb cuts are necessary, make the entrance offset for a continued view of a green roadside corridor, offset the direct line of sight so the building development is shielded from direct view.
 - iii. Explain the need for 608 landbanked parking stalls and if and when they are expected to be developed.
 - b. Landscaping:
 - i. Reduce landscaping area and preserve more of the existing natural area and native species in place if possible by reducing clearing and grading where not necessary and limiting building envelopes.

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- ii. Please explain the need for three acres of grass in an industrial development. It will require regular irrigation and maintenance and be planted with landscape material not indigenous to the pine barrens. Consider pollinator gardens and native plantings rather than mowed grass.
 - iii. Is transplanting proposed?
 - iv. Is natural restoration proposed where temporary clearing occurs but the area will not be developed with structures?
 - c. Prior to site disturbance including clearing or cutting vegetation, grading or any activity related to this project:
 - i. stake clearing limits for inspection by this office
 - ii. file recording instrument to protect open space
 - iii. obtain all other permits and approvals
 - d. Covenants and Restrictions
 - i. Submit draft for review.
 - ii. Record C&Rs prior to disturbance.
4. Review plans for stormwater runoff, erosion control, placement of roadways and retaining walls.
5. Signage
- a. Submit sign plans for review
 - b. Only one monument sign is presently shown at the easterly curb cut. No additional signage should be necessary. No monument sign over 15 feet.
 - c. Signage must be in keeping with CGA character (size, colors, height, materials, lighting, etc.)
6. Lighting. Where lighting is necessary, install dark skies compliant lighting, and minimize lighting near the boundaries of open space to protect wildlife and natural habitat. If the project is used at all hours or if lighting for security is necessary, explain potential lighting, if on all hours of the night, if timers are possible, if dark skies fixtures will be used.
7. Does the project conform with Town zoning setbacks, or are variances requested? The SCP project showed a 50 buffer side yard buffer on the west side, and the subject application does not appear to maintain a 50 foot side buffer.
8. Identify other agency review and approvals. Obtain all approvals and permits prior to disturbance, grading excavation and other site work.
9. Address comments in this report.
10. Additional analyses may be necessary after the public hearing and/or receipt of any additional information. Hearing record may need to remain open to receive and review any additional information for the public record. Keep record open for a minimum of 10 days to receive supplemental information and public comments.

STAFF EXHIBITS

- A. Draft Staff Report
- B. Aerial of the Project Site and Study Area
- C. Photographs of the Project Site
- D. Overall Site Plan dated May 3, 2022 prepared by Key Civil Engineering last
- E. Previous Development Overlay Exhibit with slopes dated May 17, 2022 prepared by Key Civil Engineering
- F. Applicant's hardship and review Standards and Guidelines
- G. Previous Development Overlay Exhibit dated May 17, 2022 prepared by Key Civil Engineering
- H. Silver Corporate Park decision and map

Exhibit B

Expressway Drive North
Compatible Growth Area Hardship Waiver Application and
Development of Regional Significance Application
Public Hearing August 17, 2022
SCTM 200-662-2-5.16



0 500 1,000 2,000 3,000 4,000 Feet

Exhibit C



























Exhibit D

Exhibit E

REFERENCES
THESE PLANS REFERENCE:
SITE PLAN PACKAGE
PREPARED BY:
KEY ENGINEERING
864 BLUE POINT ROAD, UNIT B
HASTINGSVILLE, NEW YORK 13607
DATED: 05/03/2022 (REV. 6)
FINAL MAP
PREPARED BY:
KEY ENGINEERING
864 BLUE POINT ROAD, UNIT B
HASTINGSVILLE, NEW YORK 13607
DATED: 05/03/2022 (REV. 10)
VICINITY MAP BACKGROUND DATA
PROVIDED BY MAPS GOOGLE.COM
OWNER
SIO OLD COUNTRY ROAD, LLC
30 OLD COUNTRY ROAD
HASTINGSVILLE, NY 13607
946-643-0262
APPLICANT
SIO OLD COUNTRY ROAD, LLC
80 EPP AVENUE, SUITE 1002
HASTINGSVILLE, NY 13601
946-643-0262

EXISTING CONDITIONS SLOPE ANALYSIS (OVERALL SITE)

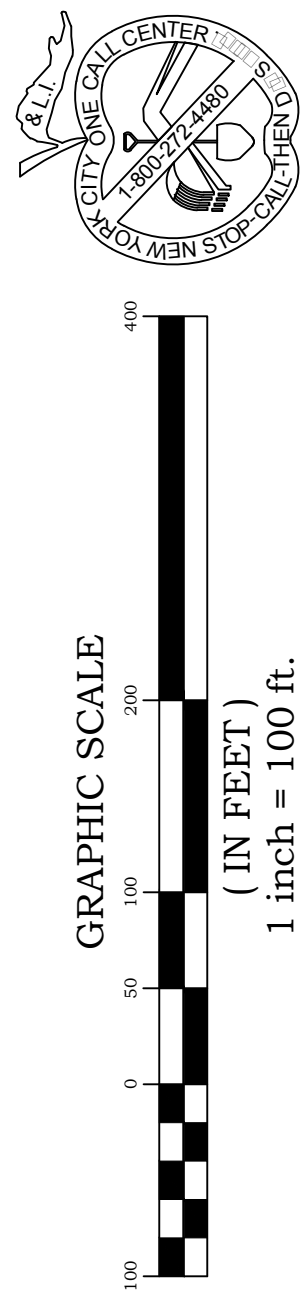
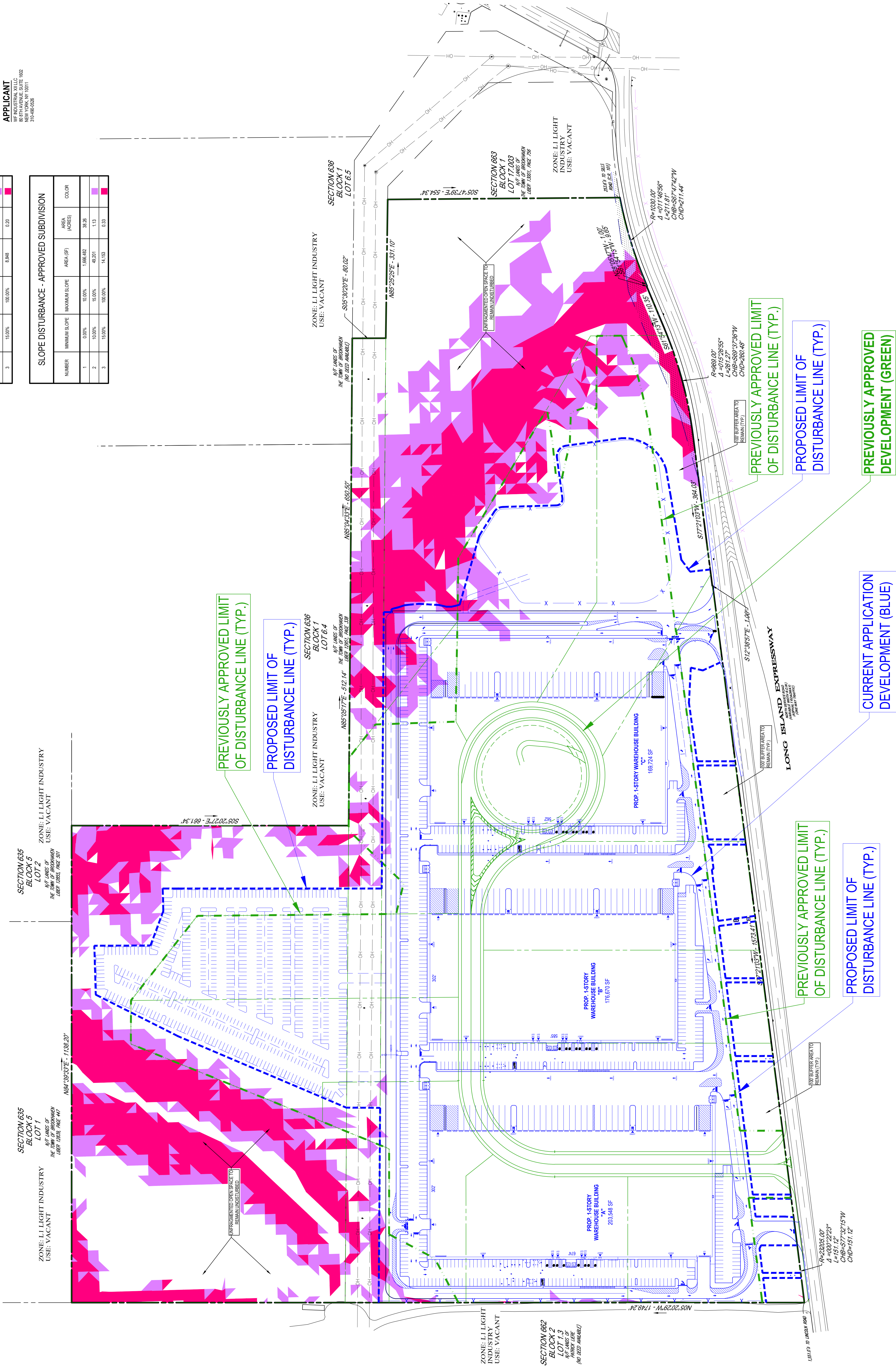
NUMBER	MINIMUM SLOPE	MAXIMUM SLOPE	AREA (SF)	AREA (ACRES)	COLOR
1	0.00%	5.00%	2,443,225	56.09	
2	5.00%	10.00%	398,334	7.03	
3	10.00%	100.00%	382,885	8.33	

SLOPE DISTURBANCE - PROPOSED SITE PLAN

NUMBER	MINIMUM SLOPE	MAXIMUM SLOPE	AREA (SF)	AREA (ACRES)	COLOR
1	0.00%	5.00%	1,792,347	40.32	
2	5.00%	10.00%	53,581	0.78	
3	10.00%	100.00%	8,948	0.20	

SLOPE DISTURBANCE - APPROVED SUBDIVISION

NUMBER	MINIMUM SLOPE	MAXIMUM SLOPE	AREA (SF)	AREA (ACRES)	COLOR
1	0.00%	5.00%	1,696,482	38.36	
2	5.00%	10.00%	46,221	1.13	
3	10.00%	100.00%	14,153	0.33	



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CIVIL ENGINEERING
864 BLUE POINT ROAD, UNIT B
HASTINGSVILLE, NEW YORK 13607
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PROJECT NAME
PROPOSED WAREHOUSE
NORTH OF NYS ROUTE 406 & WEST OF SULLS ROAD
TOWN OF BROOKHAVEN, COUNTY OF SUFFOLK
DIST. 0000, SECT. 662, BLOCK 2, LOT 5.18
ZONE: LI INDUSTRIAL 1 DISTRICT LIGHT INDUSTRY

DRAWING TITLE
PREVIOUS DEVELOPMENT
OVERLAY EXHIBIT WITH SLOPES

DATE: 05/17/2022
SCALE: 1" = 100'
PROJECT NUMBER: 21065
DRAWING BY: JR
CHECKED BY: DP
APPROVED BY: JP
SEAL & SIGNATURE:

NOT VALID UNTIL SEALED

DRAWING No:
PDX-1

DANIEL J. PEYERARO, P.E.
NEW YORK STATE PROFESSIONAL ENGINEER
PAGE No: 1 OF 1

Exhibit F



CONFORMANCE TO HARDSHIP WAIVER CRITERIA OF ECL 57-0123(3)(b)

Prepared by: Nelson Pope Voorhis
70 Maxess Road
Melville, NY 11747

Prepared for: WF Industrial XII LLC
80 8th Avenue, Suite 1602
New York, NY 10011

Central Pine Barrens Joint Planning & Policy Commission
624 Old Riverhead Road
Westhampton, NY 11978

Date: June 10, 2022

The following provides an analysis of the proposed project's conformance to the standards necessary to justify a use variance listed in NYS Town Law Section 267-b, which the New York State Environmental Conservation Law, Article 57, Section 57-0121.9 utilizes as a basis for consideration of a hardship exemption for development proposals in the Central Pine Barrens Zone, Compatible Growth Area.

Town Law Section 267-b states, in pertinent part:

- (b) No such use variances shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.
- (c) The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Following are the applicant's responses to each of the four above-noted criteria for approval of the requested hardship application:



- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;*

The proposed project is the result of a negotiated Stipulation of Settlement between the Town and the prior owner, which establishes the use and yield of the 72±-acre subject site. The Applicant is not seeking an increase in yield for the site, and the Town is not seeking a decrease in the project's yield.

The prior owner had obtained both Development of Regional Significance (DRS) approval and hardship approval on the prior plan. That plan conformed to clearing and received a hardship for minor disturbance of steep slope areas. The Applicant is pursuing the project with substantially the same configuration of development; however, the site plan establishes three (3) industrial buildings rather than an industrial subdivision with buildings to be constructed in the future. The current site plan disturbs steep slope areas to a lesser degree than the prior approved plan.

The Applicant purchased the property in December 2021 with the prior approval in place. There is a reasonable expectation that a similar square footage of anticipated development would be permitted, albeit, in a different configuration. Similarly, it is reasonable to expect that a project that conforms to the vegetation clearance limits and disturbs steep slopes to a lesser degree would be permitted. The only changes are slightly greater clearing that remains in conformance with vegetation clearance limits, less slope disturbance and three (3) industrial buildings instead of multiple buildings to be built in the future within an industrial subdivision.

The Applicant has also submitted a full application to the Brookhaven Industrial Development Agency. This package seeks tax deferral in order to ensure an economically viable project. With the costs of materials, construction, fuel and related items increasing, this is even more important. The IDA submission is attached. This submission includes competent financial evidence to support the importance of the project with respect to construction/operational employment, beneficial economic ripple effect, a negotiated Payment in Lieu of Taxes (PILOT) program to offset certain community service costs and phased in real estate taxation of the property. The IDA application also includes evidence pertaining to development costs and the need for IDA relief. Without these incentives, the economic viability of the project is compromised. With these thin margins, should there be a reduction of yield, the project would not be viable. As a result, the Applicant would not be able to realize a reasonable economic return. That lack of return is substantial, and is supported by the reasonable expectations for approval of a project similar to what was previously approved as outlined above, as well as competent financial evidence included as **Attachment C**.

- (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;*

The Applicant is not claiming any Hardship in regard to the approved use and/or yield of the property. The Applicant notes that the proposed project is unique to the site and would not set a precedent for additional, similar projects in the neighborhood, as it is the result of a negotiated Stipulation of Settlement between the Town and Applicant.

The Applicant notes that the proposed Site Plan layout represents a substantial reduction in the acreage of impacts to areas of steep slopes (defined as slopes of 10% and above) as compared to that for the industrial subdivision, which had received Town and CPBJPPC approvals.

The Town and CLUP tend to encourage avoidance of impacts to slope areas, so that an underlying goal of the Site Plan was to shift the disturbed area into those portions of the property that have low (i.e., less than 10% grade) slopes. As a result, the disturbed area of the Site Plan is in the site's central area near and along the LIE North Service Road to a greater degree than that shown in the Subdivision Plan (see **Attachment A, Table 2**). This shift results in greater impact to slopes less than 10%, less impacts to slopes in excess of 10%, and less impacts to slopes in excess of 15%, as compared to the impacts of the Subdivision Plan.

The Subdivision Plan would disturb 1,666,482 SF (38.26 acres) of slopes less than 10%, 49,201 SF (1.13 acres) of slopes between 10 and 15%, and 14,153 SF (0.32 acres) of slopes in excess of 15%, while the Site Plan would disturb 1,756,347 SF (40.32 acres) of slopes of less than 10%, 33,981 SF (0.78 acres) to slopes between 10 and 15%, and 8,898 SF (0.20 acres) to slopes in excess of 15%.

It is noteworthy that both development scenarios will conform to the applicable CLUP clearing requirement: up to 46.44 acres of site may be cleared, while the approved Subdivision would clear 39.71 acres, and the Site Plan would clear 41.30 acres (a 1.59-acre increase in clearing). This difference is because the Site Plan includes more landscaped area than the Subdivision Plan and requires a larger recharge basin than the Subdivision Plan.

The Applicant acknowledges that the acreage of naturally-vegetated open space under the Site Plan that would be retained on-site will be slightly less (1.55 acres; 30.15 acres versus 31.70 acres, a 4.89% reduction) than that for the approved Subdivision; however, the clearing remains in conformance with the vegetation clearance limits.

In summary, the subject site had received DRS and Hardship approval for a similar development, and the proposed project will reduce disturbance of steep slopes and will conform with clearing. The difference from the approved plan to the current plan is a

slightly modified configuration of development and construction of three (3) buildings as compared to an industrial subdivision. As a result, the project is unique and does not apply to a substantial portion of the district or neighborhood.

(3) that the requested use variance, if granted, will not alter the essential character of the neighborhood;

Approval of the requested Hardship waiver would not change the character of the neighborhood; it is zoned for industrial use, occupies a site that is buffered from its neighbors by a substantial acreage of vacant, wooded land, and lies along a major regional roadway (the LIE). The use of the overall property (of which the subject site is a part) has been settled by the Stipulation of Settlement, so that potential impacts of a land use change have been considered by the Town and CPBJPPC when giving their approvals for the Subdivision. The land use of the Site Plan duplicates that for the approved Subdivision.

(4) that the alleged hardship has not been self-created.

The proposed project is the result of a negotiated Stipulation of Settlement between the Town and the Applicant, which establishes the use and yield of the 72±-acre subject site. The Applicant purchased the property with a reasonable expectation that a similar project would be approved. The difference from the approved plan to the current plan is a slightly modified configuration of development and construction of three (3) buildings as compared to an industrial subdivision. Given these circumstances, there is a reasonable expectation that a similar DRS approval and similar but lesser hardship would be approved. As a result, the conditions pertaining to this application are not self-created, but were created through the prior negotiated settlement and approvals for a similar project on the same property with minor beneficial changes resulting from the proposed project.

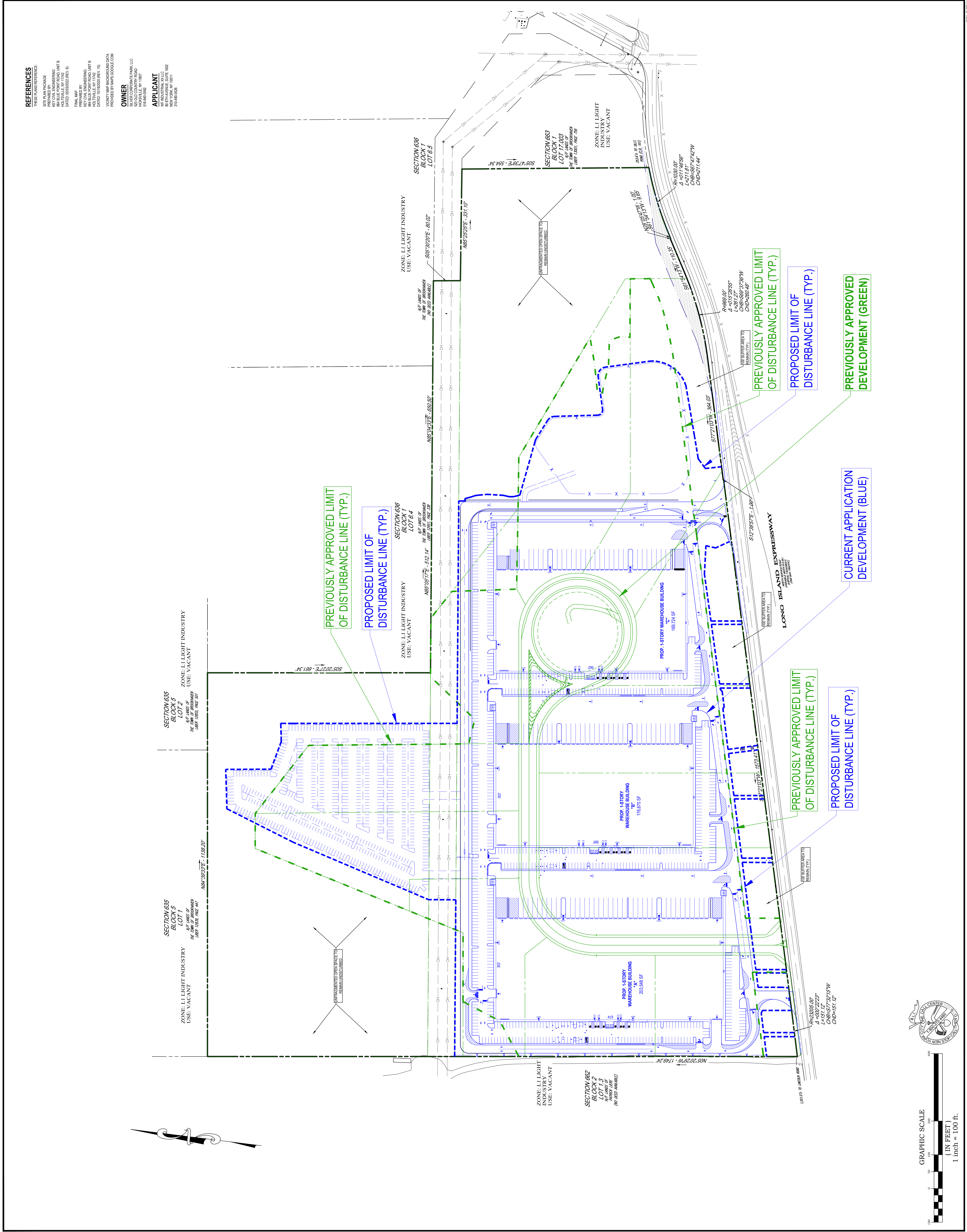
STANDARDS AND GUIDELINES FOR LAND USE

Standard (S)/Guideline (G)		Explanation and Document Page Reference
5.3.3.1 Nitrate-nitrogen		
S 5.3.3.1.1	SCSC Article 6 compliance	The project's sanitary wastewater will be treated and recharged via on-site septic systems conforming to SCSC Article 6 requirements. The estimated 549,942 SF of warehouse spaces would generate an estimated 21,998 gpd of sanitary wastewater. This would exceed the allowable sanitary flow under SCSC Article 6, which is 21,423 gpd. However, according to the Town Planning Board Negative Declaration and the Stipulation of Settlement, the Town acknowledges that the site may yield 550,000 SF of industrial space, which the Site Plan satisfies. The Site Plan will obtain all necessary and appropriate variances and/or permits, including the SCDHS Board of Review.
S 5.3.3.1.2	STP discharge	The proposed project will conform to SCSC Article 6 requirements, so that no STP will be necessary. It is acknowledged that the project's effluent will be recharged within the CGA. However, the project will operate under the jurisdiction of the SCDHS and in conformance with SCSC Article 6, thereby assuring that no impact to underlying groundwater quality will occur.
G 5.3.3.1.3	Nitrate-nitrogen goal	No surface water bodies or wetlands are present on the site or in the vicinity that could be impacted by the site's recharge and as a result, this Guideline does not apply. The proposed project includes measures that will minimize potential nitrogen impacts to groundwater (i.e., conformance to SCSC Article 6, use of an Innovative/Alternative septic system, elimination of fertilizer use on landscaping). The project density is unchanged and therefore if applicable, the nitrogen concentration in recharge will be less than 2.5 mg/l.
5.3.3.2 Other chemical contaminants of concern		
S 5.3.3.2.1	SCSC Articles 7 & 12 compliance	The Site Plan will be consistent with SCSC Article 7 in that it would not involve an industrial process or use hazardous or toxic materials in excess of the quantities allowed under Article 7 of the SCSC. The project will conform to the applicable storage and handling restrictions and requirements of SCSC Article 12. The proposed project will obtain proper permits, if needed and required.
5.3.3.3 Wellhead protection		
S 5.3.3.3.1	Significant discharges and public supply well locations	There are no public water supply wellfields within 200 feet of the subject site.
G 5.3.3.3.2	Private well protection	The project conforms to SCSC Articles 6 and 7, and all wastewater recharge will flow in an east-southeasterly direction. There are no SCWA public water supply wellfields in this direction that are near enough to the project site to be impacted by the site's sanitary recharge.
5.3.3.4 Wetlands and surface waters		
S 5.3.3.4.1	Non-disturbance buffers	There are no surface water bodies or freshwater wetlands on the subject site.
S 5.3.3.4.2	Buffer delineations, covenants, and conservation easements	The eastern and northern portions of the site, and the naturally-vegetated buffer along the LIE (totaling 30.15 acres), will be retained in their naturally-vegetated condition, and permanently protected by covenant filed with the County Clerk.
S 5.3.3.4.3	WSRR Act compliance	The subject site is not within the regulated distance from any State-designated WSRR.
G 5.3.3.4.4	Additional non-disturbance buffers	No additional buffer areas are necessary or proposed.
5.3.3.5 Stormwater runoff		
S 5.3.3.5.1	Stormwater recharge	All stormwater runoff generated on developed surfaces will be retained on-site and recharged to groundwater. The project's drainage system will utilize a recharge basin. The system will be subject to the review and approval of the Town engineering and planning staff and the project will comply with SPDES GP 0-15-002 for stormwater project notification and preparation of a SWPPP.
G 5.3.3.5.2	Natural recharge and drainage	No suitable natural low areas are present on the site that could be used for drainage purposes.
G 5.3.3.5.3	Ponds	No artificial ponds are proposed.
G 5.3.3.5.4	Natural topography in lieu of recharge basins	No natural topographic low points or swales are available to be utilized for stormwater recharge.
G 5.3.3.5.5	Soil erosion and stormwater runoff control during construction	The project's drainage system will be subject to the review and approval of the Town engineering and planning staff and the project will comply with SPDES GP 0-15-002 for stormwater project notification and preparation of a SWPPP.
5.3.3.6 Natural vegetation and plant habitat		
S 5.3.3.6.1	Vegetation Clearance Limits	The subject parcel is now and was zoned L-1 in 1995, when the CPB CLUP was adopted. Figure 5-2 of the CLUP indicates that the overall maximum allowed site clearance is 65% (46.44 acres; conversely, a minimum of 35% of the site, or 25.01 acres, would have to be preserved as natural). The proposed project will clear an estimated 41.30 acres of the site (57.80%), thereby

	conforming to this requirement. Conversely, the Site Plan would retain 30.15 acres on natural vegetation, or 42.20% of the site.	
	In summary, the Site Plan will conform to the CLUP clearing standard, though it will clear 1.59 acres more land than the Subdivision Plan, and will retain 1.55 acres less of the site's naturally-vegetated land than the Subdivision Plan. These differences are because the Site Plan includes more landscaped area than the Subdivision Plan and has a larger recharge basin than the Subdivision Plan. As a result, the Site Plan requires a somewhat larger disturbed area than the Subdivision Plan, which leaves slightly less natural land available to be retained in a natural condition.	
§ 5.3.3.6.2	This standard concerns preservation of natural vegetation in large unbroken blocks to establish open spaces contiguous to on-site and, if possible, off-site property. As a result, substantial areas of natural contiguous habitat will be retained; these areas will be contiguous to naturally-vegetated spaces adjacent to the north, east and west, thus forming an open space continuum as intended by this standard.	
§ 5.3.3.6.3	The Applicant does not intend to include fertilizer-dependent landscape species in the project's landscape design, other than a potential initial application, to establish healthy growth. Landscape species consistent with the species list in Figure 5-2 (Planting Recommendations) of the CLUP will be used in the final site plan landscape design plans.	
§ 5.3.3.6.4	Landscape species consistent with the species list in Figure 5-2 (Planting Recommendations) of the CLUP will be used as part of the final site plan landscape design plans.	
	5.3.3.7 Species and communities of special concern	
§ 5.3.3.7.1	<ul style="list-style-type: none"> The Applicant will ensure that the Site Plan will conform to NYSDEC guidance regarding habitat protection and accommodation for rare, threatened endangered and species of special concern. As directed by the NHP, clearing will be limited to occur within the time period specified by the NYSDEC, to protect the habitat of the Northern Long-eared Bat. No clearing will occur on the Project Site from April 1 to October 31 of any given year to protect the habitat of the Northern Long-eared Bat unless otherwise authorized by NYSDEC. Host plants for the Persius Duskywing are not expected within proposed development areas. 	
	5.3.3.8 Soils	
G 5.3.3.8.1	The Site Plan was revised in part to maximize use of slopes less than 10%, and reduce impacts to slopes 10 to 15%, as well as to slopes in excess of 15%. This goal is achieved to a large degree by the Site Plan, where more of the site's slopes of less than 10% will be disturbed than the Subdivision Plan, but less of the site's 10 to 15% slopes and less of the site's 15+% slopes will be impacted.	
G 5.3.3.8.2	An Erosion & Sediment Control Plan will be prepared as part of the Site Plan for the project. Erosion prevention measures to be taken during construction may include groundcovers (vegetative or artificial), drainage diversions, soil traps, minimizing the area of soil exposed to erosive elements at one time, and minimizing the time span that soil is exposed to erosive elements. Soil removed during grading and excavation will be used as backfill (if it displays acceptable bearing capacity and leaching characteristics) to produce acceptable slopes for construction. The proposed stormwater design conforms to the intent of this standard.	
G 5.3.3.8.3	A map has been prepared depicting slope intervals of 0-10%, 10-15% and greater than 15%. As shown in the Existing Slope Analysis Plan, Proposed Warehouse for the Site Plan, there are 8.33 acres of steep slopes (defined as >15%) on the subject site. It should be noted that 91.67% of the site has slopes of less than 15%. Natural steep slopes are found in the central and northern parts of the site. For the proposed project, regrading is not expected to produce slopes in excess of 1:3.	
G 5.3.3.8.4	The potential for erosion to occur during construction or after construction is completed will be controlled by implementing a SWPPP, which will include engineered Erosion Control Plans during the site plan review process.	
G 5.3.3.8.5	One of the goals of the Site Plan was to reduce the area of impact to slopes in excess of 10% to a greater degree than achieved for the Subdivision Plan. It is estimated that 0.98 acres of slopes 10% and greater will be impacted by the Site Plan. In comparison, the Subdivision Plan (assuming the current slope map) would impact 1.45 acres of slopes in excess of 10%.	
G 5.3.3.8.6	One of the goals of the Site Plan was to reduce the potential need of retaining walls by reducing impacts to steep slope areas. However, should retaining walls still be needed, details will be prepared for and submitted to the Town Engineer.	
	It is estimated that 0.20 acres of slopes 15% and greater will be impacted by the Site Plan. In comparison, the Subdivision Plan (assuming the current slope map) would impact 0.32 acres of slopes in excess of 15%.	
	5.3.3.9 Coordinated design for open space management	
§ 5.3.3.9.1	No dedication of the open space on the site is proposed.	
G 5.3.3.9.2	Clustering of the project is a central tenet of the Site Plan, to allow for retention of substantial acreages of natural vegetation in the site's eastern and northern portions, to abut similar areas on adjacent properties. This principle also enables the Applicant to locate the disturbed area preferentially on the low-slope areas of the site.	
G 5.3.3.9.3	The Applicant will participate in the preparation of a covenant to permanently protect the open spaces on the site.	
	5.3.3.10 Agriculture and horticulture	
G 5.3.3.10.1	Best Management Practices	
	N/A; the project is a warehouse in nature, and no new or expanded agricultural or horticultural uses are included.	

5.3.3.11 Scenic, historic, and cultural resources		
G 5.3.3.11.1	Cultural resource consideration	The project design will retain a 100 foot-deep naturally-vegetated buffer along the site's southern boundary with the LIE. Additionally, plantings of appropriate landscape species to protect and enhance the natural aesthetics of the site and area will be made within the disturbed area. The project's buildings and amenities will employ an attractive architectural treatment and complementary landscape design that would be consistent with the aesthetics of the area and congruent with the surrounding land uses.
G 5.3.3.11.2	Inclusion of cultural resources in application	N/A; there are no known or suspected cultural resources on the subject site that could be impacted by the proposed project, based on review of NYS OPRHP records.
G 5.3.3.11.3	Protection of scenic and recreational resources	The project design will retain a 100 foot-deep naturally-vegetated buffer along the site's southern boundary with the LIE. Additionally, plantings of appropriate landscape species to protect and enhance the natural aesthetics of the site and area will be made within the disturbed area. The project's buildings and amenities will employ an attractive architectural treatment and complementary landscape design that would be consistent with the aesthetics of the area and congruent with the surrounding land uses.
G 5.3.3.11.4	Roadside design and management	<ul style="list-style-type: none"> Unlike the Subdivision Plan, the Site Plan includes two ingress/egress curb cuts on the site's frontage on the LIE North Service Road. The project's signage and lighting will be compliant and in keeping with the character of the area.
5.3.3.12 Commercial and Industrial development		
S 5.3.3.12.1	Commercial and industrial compliance with SCSC	The proposed project will comply with all applicable Town, County and/or State regulations and requirements insofar as practicable; where variances would be necessary, each will be applied for to the appropriate entity having jurisdiction.

Exhibit G



KEY
CIVIL ENGINEERING
564 BLUE POINT ROAD, UNIT B
HOLTSVILLE, NEW YORK 11742
(831) 861-0506
www.KeyCivilEngineering.com

DRAWING TITLE
PREVIOUS DEVELOPMENT
OVERLAY EXHIBIT

SEAL & SIGNATURE:

PDX-1

Exhibit H

Central Pine Barrens Joint Planning and Policy Commission
June 17, 2020
Adopted Decision to Approve
Silver Corporate Park Industrial Subdivision
Development of Regional Significance Compatible Growth Area Hardship
Yaphank, Town of Brookhaven, Suffolk County Tax Map Number 200-662-2-5.16

Present: Ms. Gallagher, for the Governor of the State of New York
Mr. Dale, for the Suffolk County Executive
Mr. Romaine, Brookhaven Town Supervisor
Ms. Aguiar, Riverhead Town Supervisor
Mr. Schneiderman, Southampton Town Supervisor

I. The Project, Project Site, and Application

Angelo Silveri c/o Silver Corporate Park LLC (the Applicant) owns a 71.41-acre unimproved parcel of land identified as Suffolk County Tax Map Number 200-662-2-5.16 (the Project Site), in the Compatible Growth Area (CGA) of the Central Pine Barrens. The Project Site is located on the north side of the North Service Road of the Long Island Expressway (New York State Route 495, LIE), west of Sills Road, in Yaphank, Town of Brookhaven. The Project Site is in the L1 Industrial Zoning District.

On December 7, 2018, the Applicant, through their agent, Philip Butler of Farrell Fritz, P.C., applied to the Central Pine Barrens Joint Planning and Policy Commission (the Commission) for a Development of Regional Significance (DRS) and Compatible Growth Area (CGA) Hardship Exemption for development of a 12-lot subdivision with 550,000 square feet of commercial/industrial land uses. The Applicant seeks to have the Commission waive strict compliance with the Central Pine Barrens Comprehensive Land Use Plan (the Plan) to remove 18,948 square feet of steep slopes on the Project Site. The Application for the DRS and hardship waiver request are collectively referred to as the Project.

The Slope Analysis Plan, last dated April 21, 2020, prepared by Key Engineering, provides clearing data and slope analyses on each lot and on the overall Project Site. The Slope Plan identifies three lots, Lots 3, 6 and 7, that are the subject of the waiver request to remove 18,948 square feet of steep slopes. The same three lots (3, 6 and 7) also contain 1.74 acres of steep slopes that will remain undisturbed and be voluntarily protected by the Applicant.

Except for 1.74 acres of undisturbed area on Lots 3, 6 and 7, the 12 building lots, ranging in size from 2.76 acres to 4.93 acres, will be cleared in their entirety. The subtotal of clearing in building lots is 41.94 acres and 4.48 acres of clearing will occur to develop a new access road named Silver Corporate Park Boulevard. The total clearing limit on the Project Site is 46.41 acres or 65%. The open space is placed in Lots 13 and 14 totaling 25 acres or 35%. The Applicant is required to maintain 25 acres as natural. The Applicant exceeds that by 6.71 acres, for a total of 31.71 acres to remain natural. The additional voluntary natural areas are in a roadside buffer (4.93 acres) and undisturbed steep slopes (1.74 acres).

The Project Site is in Groundwater Management Zone III. Conventional sanitary systems will be constructed and discharge wastewater to groundwater. Each building lot has frontage on the new interior road, which terminates in a cul-de-sac. A 1.02-acre recharge basin with an 8" rainfall capacity will be constructed in the cul-de-sac.

Public water will be supplied to the Project Site by a new water main extension that will be constructed from Sills Road for a length of 4,038 feet on the North Service Road. The nearest public water supply well field is more than 1,500 feet away.

A Stormwater Pollution Prevention Plan (SWPPP) will be prepared and submitted to NYSDEC for review and approval prior to disturbance. The SWPPP is a requirement to manage stormwater and implement erosion controls during construction. Reinforcing silt fencing will be installed. Erosion and sediment control plans will be prepared to develop Lot 7 where steep slopes of 15% or greater are present.

Disturbance to steep slopes has been significantly minimized to cluster the extent of natural steep slopes in the open space, outside of building lots, except for the waiver request. The Slope Analysis Plan identifies categories of existing slopes, vegetation clearance limits, and steep slope disturbance. The Project Site area of slopes of 0 to 10% grade comprises 58.25 acres; the area of 10-15% slopes comprises 7.83 acres; and the area of slopes 15-59.8% comprises 5.32 acres. Construction on slopes greater than 10% will not occur, except in the steep slope waiver area including:

- Lot 3: 2,847 square feet (10 to 15% grade slopes)
- Lot 6: 3,514 square feet (10 to 15% grade slopes)
- Lot 7: 12,256.4 square feet including:
 - 11,218.52 square feet (10 to 15% grade slopes)
 - 1,368.35 square feet (15 to 59.8% grade slopes)
- Total disturbance: 18,947.87 square feet (0.43 acres) (17,579.52 square feet on 10 to 15% slopes and 1,368.35 square feet on slopes greater than 15%)

Silver Corporate Park Boulevard will be developed on slopes less than 10% grade. Details of retaining walls on slopes greater than 10% will be prepared and submitted to the Town Engineer. Where feasible, planted slopes are preferred over hard structures such as retaining walls.

In its correspondence dated January 18, 2019 and February 12, 2019, the New York Natural Heritage Program (NHP) reported that a Federal or State-listed Threatened mammal, specifically the Northern Long Eared Bat (NLEB), has been documented within one mile of the Project Site and may utilize the site's natural habitat. The impact of concern is for cutting and removal of potential roost trees. To protect the NLEB habitat, no clearing will occur on the Project Site from April 1 to October 31 of any given year. The NHP reported an historical documented occurrence of the Persius Duskywing, a New York State-listed Endangered butterfly species. NYSDEC recommended surveys be performed to determine the presence or absence of host plants for this species.

In its December 20, 2018 correspondence, the New York State Office of Parks, Recreation and Historic Preservation stated the Project will have no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

II. The Long Island Pine Barrens Protection Act of 1993, the Commission, Development and the Central Pine Barrens Comprehensive Land Use Plan

The Commission was created by the Long Island Pine Barrens Protection Act (the “Act”) adopted in 1993 and codified in Article 57 of the Environmental Conservation Law (ECL). The Act empowered the Commission to, among other things, oversee land use activities within the specially designated Central Pine Barrens Area. Section §57-0107(13) of the ECL defines development to be the “performance of any building activity, . . . , the making of any material change in the use or intensity of use of any . . . land and the creation . . . of rights of access.”

ECL Section §57-0123(3)(a)) provides that, “[s]ubsequent to the adoption of the land use plan, the provisions of any other law, ordinance, rule or regulation to the contrary notwithstanding, no application for development within the Central Pine Barrens area shall be approved by . . . the [C]ommission . . . unless such approval or grant conforms to the provisions of such land use plan; provided, however, that the [C]ommission by majority vote is hereby authorized to waive strict compliance with such plan or with any element or standard contained therein, for an application for development of any person, upon finding that such waiver is necessary to alleviate hardship for proposed development in the core preservation area according to the conditions and finding of extraordinary hardship . . . pursuant to subdivision ten of section 57-0121 of this title, and every application is consistent with the purposes and provisions of this article and would not result in substantial impairment of the resources of the Central Pine Barrens.”

The Project is a Development of Regional Significance (DRS) as defined in Section 4.5.5.1 since it exceeds 300,000 square foot gross floor area for commercial/industrial development. As a DRS, the Applicant must demonstrate that the Project conforms to Standards and Guidelines, outlined in Chapter 5 of the Plan, and seek a hardship waiver to disturb the slopes as identified.

III. The Public Process, Testimony, and Supplemental Materials

The Application includes a Part I of the Full Environmental Assessment Form (EAF), a review of Standards and Guidelines for Land Use, the Subdivision Map, a Slope Analysis Plan, Stipulation of Settlement dated 2014, and a narrative addressing the hardship exemption pursuant to the Act.

On December 19, 2018, the Commission scheduled a public hearing on the Application. The hearing was held on January 23, 2019. At the hearing, a Commission Staff Report with Exhibits was introduced into the record. The Applicant, under sworn testimony, expressed they would address the concerns in the Staff Report and provide responses. Only one member of the public commented. A stenographic transcript was made of the hearing and provided to Commission members.

On April 10, 2019, the Applicant submitted supplemental and revised materials, plans, a review of Standards and Guidelines and a response to items raised in the Staff Report. A Traffic Impact Study, dated and submitted on April 18, 2019, prepared by Stonefield Engineering and Design, concluded no significant level of service changes or increases occur from the Project.

On April 6, 2020, the Applicant submitted a copy of plans prepared by Key Engineering that were transmitted to the Town to address Town concerns on road design and lot layout. This revision affected and reduced the overall number of lots from 15 to 14. The Applicant prepared a revised Slope Analysis Map, dated April 21, 2020, and prepared by Key Engineering, to provide clearing and slope analysis data necessary to identify and assess impacts to steep slopes, as per the comments in the Staff Report.

IV. State Environmental Quality Review Act (SEQRA) and Other Agency Jurisdictions

On December 19, 2018, the Commission commenced the State Environmental Quality Review Act (SEQRA) process and performed a coordinated review with Involved Agencies for this Type I action. Additional material submitted on January 3, 2019 included Part I of the EAF and a revised slope analysis plan, in which a third lot was added to the steep slope waiver request.

On February 6, 2019, the Town of Brookhaven Planning Board coordinated Lead Agency with the Commission. On February 11, 2019, the Commission deferred Lead Agency to the Town which subsequently assumed Lead Agency status.

On July 2, 2019, the Town sent the Commission a revised Site Plan accompanied by a referral letter and indicated a Traffic Impact Study was underway, which once completed, would also conclude the SEQRA process. On July 17, 2019, Commission staff responded to the referral and provided comments on the referral materials for the Town's consideration.

The Town, as Lead Agency, prepared a Part II of the EAF, dated October 8, 2019, and Part 3 dated December 5, 2019, and adopted a Negative Declaration on January 13, 2020. On January 21, 2020 and February 10, 2020, the Applicant and the Town forwarded copies of the SEQRA documents to the Commission. Collectively, these materials constitute the SEQRA Record. Extensions of the decision deadline were submitted by the Applicant and granted by the Commission during this time, the latest of which was submitted on February 12, 2020 with the decision deadline extended to June 17, 2020.

The Project requires additional permits and/or approvals from other involved agencies including the New York State Department of Transportation (NYSDOT), Suffolk County Department of Health Services, New York State Department of Environmental Conservation, and the Town of Brookhaven.

V. History of the Project Site

The Applicant has made numerous proposals for the Project Site. In 2003 when a development proposal for a Planned Retirement Community on 192 acres and a request to change the zoning district from L1 and A1 to Planned Retirement Congregate Housing Community (PRCHC) was

submitted to the Town Board of the Town of Brookhaven. At that time, the proposals were under entitled Silver Island Pines, Silver Glen and Silver Corporate Park. The change of zone was approved on December 20, 2005 with a correction on December 30, 2005 to incorporate items omitted in the approval. In January 2006, the Town Board rescinded the approval.

In April 2006, the Applicant commenced an Article 78 proceeding against the Town. The Stipulation is the result of the litigation. The acquisition by the Town of 120 acres of the original 192-acre site area as natural public open space was a key element of the Stipulation. To date, approximately 63% of the original site has been protected. The Applicant proposes to protect 31.71 acres of the Project Site, resulting in 79% or 151 acres of the original site in open space.

VI. The Project Site and the Study Area

At the Commission's public hearing, the Staff Report described the Project Site and defined a Study Area that extends one mile from the site in all directions. The Study Area describes the land use pattern in the vicinity of the Project Site.

The Project Site is presently undeveloped and contains a natural terrestrial habitat that is generally classified as a pitch pine-oak heath woodland ecological community type, except in the maintained overhead electric utility right of way corridor subject to a LIPA Easement. Historical aerial photography going back roughly 72 years to 1947, reveals the site has not been the subject of large-scale disturbance. It has remained the intact terrestrial woodland habitat it is today with a healthy dispersion of large pitch pine and oak trees, an understory of heath shrubs (e.g., huckleberry), natural leaf litter, and groundcover including spotted wintergreen and trailing arbutus.

In the immediate vicinity of the site, the south side borders on the North Service Road of the LIE. The west side adjoins a composting facility, and the northern and eastern boundaries adjoin public land. The LIE bisects the Study Area in half and forms the southern boundary of the Central Pine Barrens in this area. The area south of the LIE is outside of the Central Pine Barrens, although it is in the Study Area, and is therefore out of the Commission's jurisdiction. However, this area contains non-residential uses consistent with the proposed land use.

North of the LIE, on the east side of the Study Area and east of Sills Road, is an area of land that was placed in the Core Preservation Area in the 2014 expansion of the Central Pine Barrens to further protect the Carmans River and its watershed. The undeveloped, wooded Map of Enchanted Forest, located in this area, was subsequently protected by conservation easements through the Pine Barrens Credit Program.

The remainder of the Study Area is in the CGA. The north side of the Project Site adjoins natural open space owned by the Town. Residential land use development is located in the northerly portion of the Study Area. Adjoining the site to the west is a large agricultural/composting land use, beyond which are situated residentially developed communities.

VII. Development of Regional Significance Review and Plan Conformance

Summary

The Act authorizes the Commission, by majority vote, to waive strict compliance with the Plan upon finding that such waiver is necessary to alleviate a demonstrated hardship. Chapter 4 of the Plan outlines the review process for development that meets the thresholds constituting a DRS. The Commission's review is limited to compliance with the Standards and Guidelines set forth in Volume 1, Chapter 5 of the Plan.

The Application demonstrates conformance with Standards and Guidelines, except for the area that is the subject of a hardship waiver, i.e., removal of steep slopes on 18,948 square feet of the Project Site.

Standards and Guidelines that are Not Applicable

Not all Standards and Guidelines apply to the Project. This section identifies the Standards and Guidelines that do not apply to the Project either because the Project does not include a facility or structure that will cause an impact, the resource is not present, or the activity is not occurring. Specifically, no sewage treatment plant is proposed (S5.3.3.1.2); freshwater wetland habitat is not present (S5.3.3.4.1); the site is not within the jurisdiction of the Wild, Scenic and Recreational Rivers Act (S5.3.3.4.3); no ponds are proposed (G5.3.3.5.3); the vegetation clearing limit is met (S5.3.3.6.1); open space is unfragmented to the maximum extent (S5.3.3.6.2); the Project maximizes the clustering technique (G5.3.3.9.2); no land dedications will occur therefore no receiving entity is identified, and covenants will be recorded to protect natural areas (G5.3.3.9.3).

Applicable Standards and Guidelines

A summary of the Standards and Guidelines identifies the status of conformance. Details are provided where relevant and applicable to explain conclusions of conformity. It is noted where conformance is deferred to other agencies such as the Suffolk County Department of Health Services or NYSDEC who regulates protection of public health, groundwater and other natural resources. Since the proposed land use is commercial/industrial, the uses may be subject to regulations that pertain to management and storage of chemicals and hazardous materials and control of stormwater runoff to minimize water pollution. Site specific land uses for each lot and site plans have not been identified or prepared by the Applicant. The Applicant will adhere to these regulations and seek to obtain permits or seek a hardship waiver(s).

Standard or Guideline	Title	Conformance
Standard 5.3.3.1.1	Suffolk County Sanitary Code Article 6 Compliance	Compliance to be demonstrated upon Suffolk County Department of Health Services approval. Absent redemption of Pine Barrens Credits, the sewage flow is capped at 21,423 gallons per day.
Guideline 5.3.3.1.3	Nitrate-nitrogen goal of 2.5 mg/l	<ul style="list-style-type: none">• The Applicant shall provide proof that this Guideline will be met in the full buildout of the Project, prior to disturbance and development on the Project Site.• If conformance is not demonstrated, a waiver request must be submitted, subject to review and decision.

Standard 5.3.3.2.1	Suffolk County Sanitary Code Articles 7 & 12 compliance	Compliance to be demonstrated upon Suffolk County Department of Health Services approval.
Standard 5.3.3.3.1	Significant discharges and public supply well locations	Compliance to be demonstrated upon Suffolk County Department of Health Services (SCDHS) and New York State Department of Environmental Conservation approval.
Guideline 5.3.3.3.2	Private well protection	Compliance to be demonstrated SCDHS and NYSDEC approval.
Standard 5.3.3.5.1	Stormwater recharge	Compliance to be demonstrated upon other agency approval of a Stormwater Pollution Prevention Plan
Guideline 5.3.3.5.2	Natural recharge and drainage	The Project conforms.
Guideline 5.3.3.5.4	Natural topography in lieu of recharge basins	A recharge basin will be constructed in a less steeply sloped area of the Project Site; however, natural wales and depressions are not proposed.
Guideline 5.3.3.5.5	Soil erosion and stormwater runoff control during construction	Compliance to be demonstrated upon other agency approval of a Stormwater Pollution Prevention Plan
Standard 5.3.3.6.1	Vegetation Clearance Limits	<ul style="list-style-type: none"> • The Project conforms • 65% or 46.41 acres of the site will be cleared • 35% or 21.79 acres will remain natural consisting of existing pitch pine oak ecological community in Lot 13 (11.41 acres) and Lot 14 (13.58 acres). • Voluntary protection of 6.71 acres including: <ul style="list-style-type: none"> ○ 4.97 acres in a 100-foot-wide natural roadside buffer on Lots 1, 8, 9, 10, 11 and 12 ○ 1.74 acres of undisturbed steep slopes on Lots 3, 6 and 7 • Natural areas will be fenced before, during, and after construction.
Standard 5.3.3.6.2	Unfragmented open space	<ul style="list-style-type: none"> • The Project conforms • Unfragmented open space on Lots 13 and 14 totals 25 acres • Connectivity of open space with the adjacent 120 acres of Town-owned open space • Open space protects natural ecological communities including terrestrial habitat and steep slope topographic features
Standard 5.3.3.6.3	Fertilizer-dependent vegetation limit	The Project appears to demonstrate compliance with this Standard.
Standard 5.3.3.6.4	Native Plantings	<ul style="list-style-type: none"> • Landscaping plans will be reviewed by the Town and submitted to the Commission office as necessary. • Utilize native species of local genotypes. • Transplanting is encouraged but not required. • Flag trees to be protected in place during construction.
Standard 5.3.3.7.1	Special species and ecological communities	<ul style="list-style-type: none"> • The Project conforms if the Applicant adheres to NYSDEC guidance. • In its correspondence dated January 18, 2019 and February 12, 2019, the New York Natural Heritage Program (NHP) reported that a Federal and New York State-listed Threatened mammal, specifically the Northern Long Eared Bat (NLEB) (<i>Myotis septentrionalis</i>), has been documented within one mile of the Project Site and may utilize the site's natural habitat. These bats may travel 1.5 miles or more from documented locations. The impact of concern for bats is the cutting or removal of potential roost trees. No clearing will occur on the Project Site from April 1 to October 31 of any given year to protect the habitat of the

		<p>Northern Long-eared Bat.</p> <ul style="list-style-type: none"> • The NHP reported an historical documented occurrence from 1979 of the Persius Duskywing, a New York State-listed Endangered butterfly species. NYSDEC recommended surveys be performed to determine the presence or absence of host plants for this species. If suitable habitat for this animal is present in the vicinity of the Project Site, it is possible that it may still occur there. Field Surveys are recommended to include a search for this species particularly at sites currently undeveloped that may contain suitable habitat. Seek NYSDEC Guidance.
Guideline 5.3.3.8.1	Clearing envelopes	Each lot will be cleared in its entirety including steep slopes, except for 1.74 acres of undisturbed steep slopes on Lots 3, 6 and 7.
Guideline 5.3.3.8.2	Stabilization and erosion control	<p>Construction will not occur on slopes greater than 10% except for the waiver request to remove steep slopes including:</p> <ul style="list-style-type: none"> • Lot 3: 2,847 square feet (10 to 15% slopes) • Lot 6: 3,514 square feet (10 to 15% slopes) • Lot 7: Total of 12,256.4 square feet <ul style="list-style-type: none"> ○ 11,218.52 square feet (10 to 15% slopes) ○ 1,368.35 square feet (15% and greater slopes) • Total steep slope disturbance: 18,947.87 square feet (0.43 acres) (17,579.52 square feet on 10 to 15% slopes and 1,368.35 square feet on 15% or greater slopes)
Guideline 5.3.3.8.3	Slope analysis	<p>The Slope Analysis Plan contains a detailed analysis on the amount and location of disturbance and areas of lots left “undisturbed.” Disturbance to steep slopes has been significantly minimized in the Plan to 1) protect steep slopes where possible within building lots, and 2) to cluster building lots outside of steep slope areas and inversely cluster steep slopes in the open space.</p>
Guideline 5.3.3.8.4	Erosion and sediment control plans	Erosion and sediment control plans will be prepared where development occurs in areas of 15% slopes or greater.
Guideline 5.3.3.8.5	Placement of roadways	<ul style="list-style-type: none"> • Development of the Boulevard and recharge basin will occur on slopes 10% or less. The activity will displace 11,229 cubic yards of topsoil. The cut material will be temporarily distributed over the lots in the 100-foot wide roadside buffer on the North Service Road. This equates to an estimated 0.75 inches per square foot within the buffer. No other disturbance will occur in the buffer. • Construction plans will be submitted to the Town Engineer.
Guideline 5.3.3.8.6	Retaining walls and control structures	<ul style="list-style-type: none"> • Details of retaining walls for development including roads on slopes greater than 10% will be prepared and submitted to the Town Engineer. • Disturbance of 1,368.35 square feet containing slopes 15 to 59.8% grade will occur on Lot 7. This is part of the waiver request. • Planted slopes are encouraged where feasible over hard structures.
Guideline 5.3.3.9.2	Clustering	Conforms, clustering is maximized to enhance adjacent open space and provide contiguous open space connections
Guideline 5.3.3.9.3	Protection of dedicated open space	<ul style="list-style-type: none"> • Open space will be protected with covenants, covenants should be provided for review prior to recording. • No dedications are proposed.
Guideline 5.3.3.11.1	Cultural resource consideration	<ul style="list-style-type: none"> • The Project provides protection measures for viewsheds, character and undisturbed roadsides and connects to adjacent open space, hiking trails. • SHPO concluded no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.
Guideline	Inclusion of cultural	• The existing undisturbed roadside character will be preserved in a

5.3.3.11.2	resources in applications	100-foot wide natural buffer to protect the Project Site and regional resources. <ul style="list-style-type: none"> • No State or National Register resources are present.
Guideline 5.3.3.11.3	Protection of scenic and recreational resources	<ul style="list-style-type: none"> • The Project retains a visually shielding natural roadside buffer. • The future monument signage should be in keeping in both style and scale with the community character. Signage details shall be provided for review and comment.
Guideline 5.3.3.11.4	Roadside design and management	One ingress/egress curb cut for the access road is proposed on the North Service Road. The remaining roadside area will be undisturbed and protected in a 100-foot wide natural buffer. Manmade structures such as signage and lighting will be compliant and in keeping with the character of the CGA.
Guideline 5.3.3.12.1	Commercial and industrial compliance with Suffolk County Sanitary Code	Compliance to be demonstrated upon Suffolk County Department of Health Services approval, as applicable.

VIII. Commission Review of the Hardship Exemption Request

Pursuant to the Act, in determining whether to grant a CGA hardship exemption for the Project, the Commission shall consider, among other things, the criteria set forth in New York State Town Law §267-b(2) and determine whether the Project is consistent with the purposes and provisions of the Act and whether the Project will result in a substantial impairment of the resources of the Central Pine Barrens area.

In considering the criteria set forth in Town Law §267-b(2)(b)(1), the Applicant asserts that the Project requires the development of all 12 lots to be financially viable and the entire Project is jeopardized if the hardship is not granted. The Application states that fundamental to the Applicant's decision to sell 120 acres to the Town and the Town's decision to acquire land at the negotiated price was a collective expectation that the Applicant would be able to develop a 12 lot subdivision on the balance of the property without the need for relief, as per the Stipulation of Settlement. As engineering design progressed, the parties discovered that the Project would disturb steep slopes and require a hardship. After several attempts to redesign the layout, the alternative of leaving steep slopes undeveloped, would require that Lots 6 and 7 be underdeveloped or not developed at all. This would not only alter the expectations of the parties but could jeopardize the entire Project, which requires the development of all 12 lots in order the Project to be financially viable. The waiver area is strictly and significantly limited to specific isolated patches on building Lots 3, 6 and 7 and is 0.58% of the Project Site.

The majority of the 13 acres of existing natural steep slopes distributed on the Project Site is preserved in a clustered plan layout and contained in the area to remain as natural open space, outside of building lots and envelopes. The Applicant attempted to design the Project to avoid the waiver utilizing different layouts and adjusting lot lines, however, the Applicant asserts the financial viability of the Project cannot be achieved if not for a waiver that affects removal of steep slopes on 18,948 square feet or 0.58% of the Project Site.

In considering the criteria set forth in Town Law §267-b(2)(b)(2), the Commission finds that the hardship is unique due the Project Site's history. The Applicant asserts the waiver is the result of the Stipulation of Settlement to develop 12 lots on the Project Site. These circumstances and

history are unique to this Applicant and Project and does not apply to a substantial portion of the neighborhood. The Applicant further protects approximately 6.71 acres as natural open space in excess of the Stipulation resulting in protection of 79% or 151 acres of the original 192 acres.

Natural open space connectivity is accomplished by situating open space contiguous to the northerly adjacent natural, Town-owned open space. The subdivision layout creates protects terrestrial ecological communities and succeeds in connecting northerly adjacent public lands to adjoin natural resources. The clustering technique is maximized in the open space arrangement and building lot layout. The Application encourages compatible industrial development in the CGA to accommodate regional growth influences in an orderly way while protecting the pine barrens environment from the individual cumulative adverse impacts thereof. The roadside character of the CGA is protected through the 100-foot wide natural buffer.

In considering the criteria set forth in Town Law §267-b(2)(b)(3), as it relates to character of the neighborhood, the Project is consistent with the Study Area. The Project Site is on a major transportation corridor (the LIE). The Project mimics the industrial development and plan layout for sites in the Study Area, on the south side of the LIE. The Project adjoins the developed westerly adjacent cleared site of a composting facility.

The Project adjoins development on its west and south sides. And where open space is adjacent, the cluster plan connects open space uses. The presence of the overhead utility corridor causes an intrusive developed element in the Project Site. The Project's industrial land use is consistent with the existing zoning district and permitted uses; no Town Board action is needed such as a change of zone that deviates from the Town Code. The Project is not inconsistent with the existing character of the area, uses, and generally conforms to its surroundings and pattern of development and land uses. The Project may become a commercial/industrial distribution center that is well situated on a major highway. The Commission finds that the Project will not alter the essential character of the neighborhood.

Pursuant to Town Law §267-b(2)(b)(4), the Commission finds that the hardship is not self-created. The Applicant asserts the Project is the result of a process that included the sale of a large portion of the original 192 acre site to the Town to preserve open space, leaving the balance to the Applicant to develop 72 acres and the Applicant's expectation to realize a financially viable Project. The Applicant and Town have achieved protection of 120 acres and reduced the scale of development significantly from its inception to arrive at the Application. The Project is consistent with the current industrial zoning classification in effect since before the Act. Prior proposals required Town Board actions and resulted in greater development in size and scale than the Project.

IX. Conclusion

The Project entitled Silver Corporate Park Compatible Growth Area Development of Regional Significance and Compatible Growth Area Hardship Waiver is depicted in the Slope Analysis Plan, Drawing No. SAP-1, and the Overall Site Plan, last dated April 21, 2020, and prepared by Key Civil Engineering is entitled to a hardship exemption for the foregoing reasons, is approved, and is subject to the following conditions.

1. General conditions

- a. Sewage flow is capped at 21,423 gallons per day.
- b. The final Subdivision Map and Site Plans identify clearing limits, open space, and fertilizer dependent vegetation limits.
- c. Copies of the recorded subdivision map and future approved site plans are provided to the Commission office.

2. Protection of natural vegetation and clearing

- a. Open space
 - i. The Project protects 31.71 acres of natural open space as identified on the map. The natural area must remain in its natural condition. No disturbance, clearing, encroachments, landbanked parking, other uses, emergency access, road widening, or other development shall occur in the natural area. The open space must remain protected and noted as sterilized and yielding no additional density or intensity, disturbance or wastewater flow, except as defined in the Application.
 - ii. Protect large trees as street trees, where feasible, in their existing place. Delineate the road clearing limits and flag trees that may remain in place during and after construction.
 - iii. The natural open space shall be identified in all maps for the Project.
- b. Clearing
 - i. No more than 46.42 acres of the Project Site will be cleared.
 - ii. No clearing activity shall occur from November 1 to March 31 of any calendar year to protect the Federal and New York State-listed Threatened Northern Long Eared Bat and its habitat, unless otherwise directed by NYSDEC.
- c. Declaration of Covenants and Restrictions shall protect a total of 31.71 acres of the site as natural open space. The Draft Covenants and Restrictions shall be prepared for review by the Commission Counsel and upon approval of Commission Counsel, filed with the Suffolk County Clerk within one year of this resolution, prior to disturbance on the Project Site. The Applicant shall provide proof of recording to the Commission
- d. Prior to the commencement of development activities on the Project Site, the Applicant shall:
 - i. Install and maintain snow fencing along the clearing limits/natural area to protect the area to remain natural during construction. Notify the Commission office within one week prior to disturbance to inspect the clearing limits. No clearing shall occur until the Commission office has field inspected and issued

written approval to the Applicant. Notify the Commission when all construction is completed on the Project Site.

- ii. Install and maintain permanent split rail fencing on the open space on the boundaries of Lots 13 and 14, as per the Map, which states “proposed split rail wood fence delineating unfragmented open space and areas of steep slopes” and including the undisturbed steep slopes on Lots 3, 6, and 7, as per the Map, which states “proposed split rail wood fence delineating unfragmented open space and areas of steep slopes” and “undisturbed area as per steep slope requirement to be protected with fencing and covenants and restrictions.”
 - iii. For efficient and expedited site plan review, consider uniform fencing and other design standards including signage color palette, material, height, and other details for when each of the 12 site plans is developed.
 - iv. Once development of each phase is complete, remove snow fencing and install split rail fencing in its place along clearing limit boundaries to delineate areas to remain natural.
3. Commission shall have the right to inspect the open space on an annual basis.
 4. Prior to disturbance, contact NYSDEC for guidance on performing a survey to identify the presence or absence of Persius Duskywing butterfly habitat in the LIPA right of way easement area. Perform the survey as per NYSDEC guidelines. Submit results of the survey to NYSDEC and the Commission office. If the species and/or its habitat are present, wait for further instructions from NYSDEC before commencing development including clearing and preparation of the site for construction.
 5. Lighting must be minimal and should not spill off site. It should consist of downward facing fixtures. The Lighting Plan, Sheet SD-5, contains specifications for illuminating the Project Site. Light posts are 25 feet tall. Reduce the pole height to a maximum of 12 feet to minimize excess lighting, energy, and cost to achieve the same amount of lighting necessary on site.
 6. A maximum of 11,229 cubic yards of soil may temporarily be distributed over the 100-foot wide natural roadside buffer. Once this is complete, no further disturbance may occur in buffer.
 7. Site specific landscaping and signage plans must be prepared, submitted to the Town for review and referred to the Commission office for approval.
 - a. Landscaping plans must be composed of native species of local genotypes. Transplanting is encouraged but not required. And where feasible, flagging of existing trees should be conducted to designate trees to be protected and kept in place during construction.
 - b. Space is reserved at the curb cut to accommodate a monument sign. Keep colors, materials, height, and lighting minimal and consistent with the landscape to protect the Central Pine Barren’s character and resources
 - c. If lighting is proposed on the sign or if it is backlit, it will be dark sky compliant in accordance with the Town Code and in keeping with the character of the CGA.

8. Submit a Stormwater Pollution Prevention Plan for review and approval to the NYSDEC. If not approved by NYSDEC, no activity may occur under this approval. Provide evidence of NYSDEC approval.
9. Construction phasing
 - a. Development of each of the 12 lots may occur individually or simultaneously, depending on interested tenants and needs.
 - b. This approval shall expire five (5) years from the date of this Resolution. The Applicant may seek an extension of this approval in one (1) year increments and reauthorization from the Commission, subject to its review.
10. Any changes of the Project, as approved, must be reviewed and approved by the Commission.

Motion to Approve Silver Corporate Park Compatible Growth Area Development of Regional Significance and Hardship Waiver

Date: June 17, 2020

Motion By: Mr. Romaine

Seconded: Ms. Gallagher

Vote:

Yes: Ms. Gallagher, Mr. Dale, Mr. Romaine, Ms. Aguiar and Mr. Schneiderman

No: None

Abstain: None

Absent: None

Copies of This Decision Will be Sent To:

New York State Department of Environmental Conservation, Division of Environmental Permits, Region 1
New York State Department of Transportation
Suffolk County Planning Commission
Suffolk County Department of Health Services
Suffolk County Department of Public Works
Suffolk County Sewer Agency
Suffolk County Water Authority
Town of Brookhaven Supervisor
Town of Brookhaven Town Clerk
Town of Brookhaven Town Board
Town of Brookhaven Board of Zoning Appeals
Town of Brookhaven Planning Environment and Land Management (PELM)
Town of Brookhaven Building Department
Town of Brookhaven Parks and Recreation Department
Applicant/Attorney

