



## Central Pine Barrens Commission Meeting Agenda

Wednesday, June 15, 2022 at 2:00 pm

Hybrid Meeting In-Person and Remote via Zoom

Brookhaven Town Hall

One Independence Hill, Farmingville, NY 11738

[Link to Join Zoom Meeting](#)

<https://us02web.zoom.us/j/83500946354?pwd=T3Z0R1FqS1VpaWxISGZRYmhERDJ6Z09>

Meeting ID: 835 0094 6354

Passcode: 714904

### 1. Administrative and Public Comment

- a. Public Comment
- b. Minutes for 5/18/22 review (*approval*)
- c. Civil Air Patrol Memorandum of Understanding: *authorize execution* (Ms. Jakobsen)

Yvette Aguiar

Member

Steven Bellone

Member

Edward P. Romaine

Member

Jay H. Schneiderman

Member

### 2. Education, Science and Stewardship

- a. Friends of Wertheim Memorandum of Understanding: *authorize execution* (Ms. Jakobsen)

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

- a. Supplemental Draft Generic Environmental Impact Statement for the Comprehensive Land Use Plan Amendments: *update / information item* (Ms. Hargrave)

#### Core Preservation Area

- b. Referral: Southampton Planning Board / Klug Farm / Northampton / 900-235-1-47.1 / proposal for a 720 square foot expansion of existing 2,610 square foot barn used for agriculture on 182 acres / *draft response* (Ms. Hargrave)
- c. Determination of Jurisdiction / Sang-Choon Cho / 70 Schultz Road / Manorville / 600-148-2-2.3 / customary incidental use for a single-family dwelling on 5.2 acres / *draft response* (Ms. Hargrave)
- d. Determination of Jurisdiction / Homeland Towers / 2055 Flanders Road / Flanders / 900-170-1-41.1 / construction of new 150 foot tall monopole with 3,000 square foot equipment installation for Verizon Wireless on 6.6 acres with a junk yard / *draft response* (Ms. Hargrave)

#### Compatible Growth Area

- e. Determination of Jurisdiction / PSEG-LI / 9,300 linear feet of underground distribution cable from the William Floyd Substation to the Brookhaven R&D Park / Yaphank / *determination* (Ms. Hargrave)

### 4. Public Hearings at 3:00 pm

- a. Tommasino Compatible Growth Area Hardship Waiver / 88 Woodland Avenue, Manorville / 200-558-2-23.3 / exceed the 35% clearing limit to 45% to construct a 9,600 square foot horse arena on a 2.4 acres with a single-family residence / *decision deadline* 8/2/22 (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 / *decision deadline* 9/2/22 (Ms. Hargrave)

### 5. Public Comment

### 6. Closed Advisory Session (if necessary)

624 Old Riverhead Road  
Westhampton Beach, NY  
11978

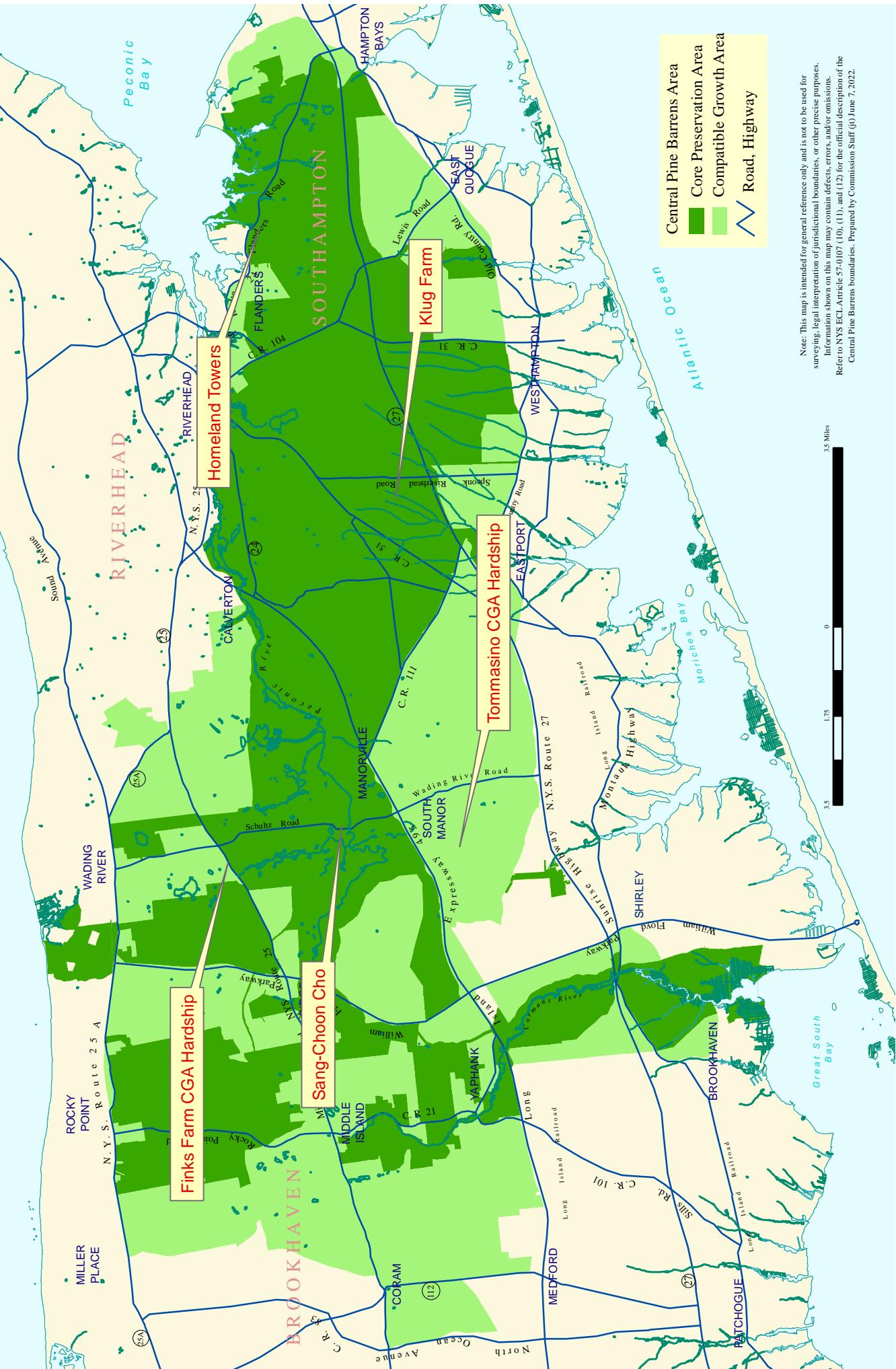
Phone (631) 288-1079  
Fax (631) 288-1367  
[www.pb.state.ny.us](http://www.pb.state.ny.us)

Next Commission Meeting, Wednesday, July 20, 2022 at 2:00 pm  
For meeting information visit <https://pb.state.ny.us/>

SITES FOR DISCUSSION AT  
CENTRAL PINE BARRENS COMMISSION MEETING OF  
June 15, 2022



Long Island Sound



**Item 1b:**  
**Draft Meeting Minutes for 5/18/22**



**Central Pine Barrens Commission Meeting Summary**  
**Wednesday, May 18, 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 and Ms. Pines (for Brookhaven), Mr. McCormick (for Riverhead), Mr. Shea (for Southampton), Mr. Dale, Mr. Freleng and Sarah Lansdale (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, Ms. Parrott, Mr. Huss, Ms. Weigand, Mr. Panko, Ms. Malangone and Ms. Brown-Walton.

Yvette Aguiar  
Member

Steven Bellone  
Member

Edward P. Romaine  
Member

Jay H.  
Schneiderman  
Member

Mr. McCormick 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 4/20/22*

Summary: **The motion was made by Mr. Shea and seconded by Mr. McCormick to approve the amended 04/20/22 meeting minutes. 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.

b. *Education and Outreach update*

Summary: Ms. Parrott discussed highlights and updates on the education and outreach division's activities covered in the previously distributed education and outreach division report.

c. *Science and Stewardship update*

Summary: Ms. Weigand discussed highlights and updates on the Science and Stewardship division's activities covered in the previously distributed Science and Stewardship division report.

d. *Prescribed fire insurance*

Summary: **The motion was made by Mr. Romaine and seconded by Mr. Shea to approve the draft resolution for the Prescribed fire insurance renewal. The motion was approved by the four members present.**

e. *Friends of Wertheim Memorandum of Understanding*

Summary: Ms. Jakobsen discussed that the Commission staff is currently working on a Memorandum of Understanding Agreement with the Friends of Wertheim concerning the Barrens to Bay Camp. The MOU will be presented at the June 15, 2022 meeting.

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### 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. Romaine discussed dumping concerns once the Brookhaven Landfill closes. Mr. Romaine will attend a future Law Enforcement Council meeting to discuss staffing and coverage to ensure that dumping issues are addressed. Mr. Huss welcomed the support. Mr. Romaine noted the lack of a regional plan for solid waste disposal. Mr. Dale added that District Attorney Tierney should be included. Mr. Freleng asked about future Water Bucket training with the Army Corps. Mr. Huss responded he will revisit with the Army Corps.

#### b. 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.

#### c. Credit Program update

Summary: The credit report was previously distributed.

#### Core Preservation Area

#### d. Town Referral: 2023 River Road (former Warner Duck Farm) / Riverhead / 600-118-4-5.7 & 5.10 / lot line modification and construction of 29,808 square feet of horse facilities on property with Credit Program conservation easement.

Summary: Ms. Hargrave discussed that the project site is affected by a conservation easement in the credit program that was filed in 1996 the Warner Duck Farm easement. Part of this property that is the subject of this referral is under the restrictions of the easement and when the lot line modification occurs, it will bring some of the easement property into a private property that is not presently under the easement. The proposed lot line modification is not an issue it appears to be non-development under the Pine Barrens Act but the proposed facilities for horses are not consistent with the easement unless more information is provided and that is expressed in the draft letter. A history of the parcels that involved in this referral is also provided. The Warner easement parcels have evolved over time. There have been at least two or three other lot line modifications that have changed the lot lines of this property and adjacent properties but the easement itself has not changed. If new lots are added in the easement area, they will be subject to the easement. A draft letter was prepared for the Commission's approval.

**The motion was made by Mr. Romaine and seconded by Mr. McCormick to approve the draft response to the town of Riverhead for the 2023 River Road Warner Duck Farm referral. The motion was approved by the four members present.**

#### Compatible Growth Area

#### e. Request: Eastport South Manor Central School District / Eastport / 200-589-3-13.7 & 13.8 (Dayton Elementary School) and 200-589-4-1 & 200-676-1-7.7 (High School) / projects include grass fields to artificial turf and solar carports at Elementary and High Schools, 120-foot cell tower and 7,000 square foot expansion of high school.

Summary: Ms. Hargrave discussed that the Commission received material from Tim Laube, the Assistant Superintendent of the Eastport-South Manor School District. There are four projects that are proposed, the first one is the replacement of existing mowed grass fields to synthetic turf; the second is a 7,000 square foot expansion of the high school for a wrestling facility; the third activity is a construction of a 120-foot tall three foot wide monopole cell tower; and the fourth activity is construction of solar car ports on the parking lot at both schools. After reviewing the items two of them appear to be non-development, the replacement of the mowed fields to synthetic turf and the solar car ports. The commission has determined that the construction of the cell tower would be development in the compatible growth area. The construction of the expansion of the high school is development which means the project site must conform to the Pine Barrens

*Land Use Plan and from our review it does conform. There is no removal of vegetation for these projects and there are no other standards that are exceeded so the recommendation is that the projects could go forward.*

***The motion was made by Mr. Romaine and seconded by Mr. McCormick to approve to the resolution on the projects in Eastport South Manor Central School District. The motion was approved by the four members present.***

f. 59 Ryerson Avenue Subdivision CGA Hardship Waiver / Manorville / 200-461-4-31 & 32 / exceed clearing limit standard / request hearing adjournment and extension of decision deadline

Summary: Ms. Hargrave discussed the applicant has requested a 60-day hearing extension. The public hearing would occur July 20, 2022 and the decision deadline is extended

***The motion was made by Mr. Romaine and seconded by Mr. Shea to approve to schedule a public hearing on July 20, 2022 and extend the decision deadline for 59 Ryerson Avenue Subdivision. The motion was approved by the four members present.***

g. Finks Country Farm CGA Hardship Waiver / Wading River / 600-134-1-1.3 / request hearing adjournment and extension of decision deadline

Summary: Ms. Hargrave discussed the applicant has requested a hearing adjournment for June 15, 2022 and a decision deadline extension.

***The motion was made by Mr. Shea and seconded by Mr. Romaine to approve to schedule a public hearing on June 15, 2022 and extend the decision deadline for Finks Country Farm. The motion was approved by the four members present.***

h. Town and NYSDEC Referrals:

i. Expressway Drive North Warehouse / Yaphank / 200-662-2-5.16 / Planning Board referral of application to the develop three warehouses, 549,942 square feet, on 71 acres

Summary: Ms. Hargrave discussed this is the former Silver Corporate Park project site and for now this responds to a referral from the town of Brookhaven on this project. The Commission will be seeing this directly from the applicant since it is a development of regional significance. It is over 500,000 square feet of industrial buildings on 71 acres in the compatible growth area in Yaphank. A draft referral letter was prepared for the Commission's approval.

***The motion was made by Mr. Romaine and seconded by Mr. McCormick to approve to send the draft referral letter to the Town of Brookhaven for the Expressway Drive North Warehouse project. The motion was approved by the four members present***

ii. Oak Run @ Middle Island / Middle Island / 200-401-2-38.5 / Town Board referral change of zone from B1 Residence to Planned Retirement Community to develop 74 senior apartments with amenities on 23.56 acres

Summary: Ms. Hargrave discussed this is a compatible growth area project for 74 senior apartments that requires a zone change and it appears to conform. It is completely vegetated now and maybe there was a small area that was formerly cleared, but it is being clustered to meet standards. A draft referral letter was prepared for the Commission's approval.

***The motion was made by Mr. Romaine and seconded by Mr. Shea to approve to send the draft referral letter to the Town of Brookhaven for the Oak Run @ Middle Island project. The motion was approved by the four members present***

iii. *Peconic Restaurant Paddler / 89 Peconic Avenue / Riverside / 900-118-2-2 / NYSDEC referral of an application for a two phased development project including a 4,212 square foot building with 2,383 square foot patio and 22 parking spaces for a restaurant use and boat rental/sales (phase 1) and hotel (phase 2)*

Summary: Ms. Hargrave discussed this is a referral from the DEC. It is a one-acre site Peconic Paddler in Riverside on the south side of the Peconic River. There is a proposal for a two-phase development the referral explained the first one is the development of a restaurant, a store and a paddler facility that would be about 4,000 square foot building and a parking lot. The second phase is a hotel that appears to not have been analyzed yet. The town has reviewed this application and Mr. Shea confirmed the site plan application received a conditional approval that expired November 2021.

***The motion was made by Mr. Shea and seconded by Mr. Romaine to amend the draft referral letter to indicate that the conditional site plan approval has expired and that a new site plan application needs to be made to the planning board for the Peconic Paddler. The motion was approved by the four members present***

**4. Public Hearings at 3:00pm – Adjourned**

- a. *59 Ryerson Avenue Subdivision CGA Hardship Waiver / Manorville / 200-461-4-31 & 32 / exceed clearing limit / adjourn to 7/20/22*
- b. *Fink's Country Farm CGA Hardship Waiver / Wading River / 600-134-1-1.3 / exceed clearing limit and fertilizer-dependent vegetation limit standards / adjourn to 6/15/22*

**5. Public Comment**

Summary: No public comments were received.

**6. Closed to Advisory Session**

*The motion was made by Mr. Romaine and seconded by Mr. Shea 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 2:45 pm.*

Attachments (in order of discussion)

1. Draft Commission meeting summary for April 20, 2022 (4 pages)
2. Final Commission meeting summary for April 20, 2022 (4 pages)
3. NYWIMA updated dated 2022 (1 page)
4. Education and Outreach division update dated May 2022 (1 page)
5. Science and Stewardship division update dated May 18, 2022 (4 pages)
6. Draft resolution of the Central Pine Barrens Joint Planning and Policy Commission Authorizing the Renewal of Prescribed Fire Insurance Policy dated May 18, 2022 (1 page), Prescribed fire Insurance Policy Renewal dated May 2022 (5 pages)
7. Final resolution of the Central Pine Barrens Joint Planning and Policy Commission Authorizing the Renewal of Prescribed Fire Insurance Policy dated May 18, 2022 (1 page)
8. Draft resolution of the Central Pine Barrens Joint Planning and Policy Commission Authorizing the Renewal of the Memorandum of Understanding with The Friends of Wertheim dated 2022 (8 pages)
9. Compliance and Enforcement division update dated January - April 2022 (2 pages)
10. Land Use division update dated May 18, 2022 (1 page)
11. Credit Program update dated May 18, 2022 (3 pages)
12. Draft referral response letter to the Town of Riverhead for Warner Duck Farm dated May 18, 2022 (5 pages); Town of Riverhead Planning Board memo and attachments dated April 18, 2022 (15 pages)
13. Final referral response letter to the Town of Riverhead for Warner Duck Farm dated May 18, 2022 (5 pages)
14. Draft resolution on the projects in Eastport South Manor Central School District dated May 18, 2022 (3 pages); Letter, maps from Tim Laube dated May 3, 2022 (7 pages); Photo Simulation from Elite Towers, LP dated December 6, 2021 (14 pages)
15. Final resolution on the projects in Eastport South Manor Central School District dated May 18, 2022 (3 pages)
16. Email from Larry Darvis to request public hearing adjournment dated May 5, 2022 (1 page)
17. Letter from Nicholas Rigano to request a public hearing adjournment dated May 10, 2022 (1 page)
18. Draft referral response letter and map to the Town of Brookhaven for Expressway Drive North Warehouse building dated May 18, 2022 (3 pages); Memo and attachments from Town of Brookhaven dated April 22, 2022 (4 pages); Letter from Key Civil Engineering dated April 21, 2022 (7 pages); Letter from Stonefield dated April 8, 2022 (2 pages)
19. Final referral response letter and map to the Town of Brookhaven for Expressway Drive North Warehouse building dated May 18, 2022 (3 pages)
20. Draft referral response letter and map to the Town of Brookhaven for Oak Run at Middle Island dated May 18, 2022 (4 pages); email and attachments from the Town of Brookhaven dated May 5, 2022 (29 pages)
21. Final referral response letter and map to the Town of Brookhaven for Oak Run at Middle Island dated May 18, 2022 (4 pages);
22. Draft referral response letter and map to the NYSDEC for Peconic Restaurant / Peconic Paddler dated May 18, 2022 (3 pages); letter and attachments from Nelson Pole Voorhis dated August 20, 2021 (30 pages)
23. Final amended referral response letter and map to the NYSDEC for Peconic Restaurant / Peconic Paddler dated May 18, 2022 (3 pages)

**Item 1c:**  
**Civil Air Patrol MOU**



## Central Pine Barrens Joint Planning and Policy Commission Meeting

Wednesday, June 15, 2022

Brookhaven Town Hall

1 Independence Hill, Farmingville, NY

### Hybrid in-person and Zoom Meeting

#### Draft Resolution of the Central Pine Barrens Joint Planning and Policy Commission (the "Commission") to Authorize Renewal of the Memorandum of Understanding with the Civil Air Patrol

Yvette Aguiar  
*Member*

Present: (for Suffolk County)  
(for Brookhaven Town)  
(for Riverhead Town)

Steven Bellone  
*Member*

Edward P. Romaine  
*Member*

Jay H. Schneiderman  
*Member*

**Whereas**, the Civil Air Patrol is a civilian auxiliary branch of the U.S. Air Force, and customarily and routinely enters into Memoranda of Understanding with local and state government agencies and entities across the country in order to fulfill its various Congressionally-mandated missions, including training, support and service, and

**Whereas**, the Civil Air Patrol is a member agency of the Central Pine Barrens Law Enforcement Council, and has provided logistical support to the Council since the Council's inception, and

**Whereas**, the Commission and Civil Air Patrol previously authorized and executed a joint Memorandum of Understanding ("MOU") in 2003, which was renewed in 2009 and 2012 and the Commission is seeking to renew the MOU for a three year period which will allow the Civil Air Patrol to provide certain services to aid the Commission in undertaking and fulfilling its obligations as enumerated in Article 57 of the Environmental Conservation Law, and

**Whereas**, through the MOU the Civil Air Patrol has undertaken training sessions and community service projects which have helped the Commission and its cooperators fulfill their various missions and which projects have included mapping, air-ground reconnaissance, ecological surveying, aerial assessment of field conditions and flight training, and

**Whereas**, the Commission desires to continue its mutually-beneficial relationship with the Civil Air Patrol; now, be it therefore

**Resolved**, that the Commission hereby approves the renewal of its agreement with the Civil Air Patrol for a three-year term and authorizes the Commission's Executive to enter into, sign and execute the new agreement with the Civil Air Patrol on behalf of the Commission; and be it further

**Resolved**, that, pursuant to the new MOU, the Commission shall determine the number of flights, if any, to be undertaken and approves the expenditure of and disbursement of funds to the Civil Air Patrol for reimbursement of fuel expenses it incurs in any such flights in accordance with a schedule of costs enumerated in "*Attachment 1 – Aircraft Flying Hour Minor Maintenance Payment Rates*," effective June 1, 2010.

**Motion by:**

**Second by:**

**Ayes:**

**Nays:**

**Absentions:**

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11978

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**MEMORANDUM OF  
UNDERSTANDING BY AND  
BETWEEN  
THE CIVIL AIR PATROL BY AND THROUGH NEW YORK WING  
AND  
THE CENTRAL PINE BARRENS COMMISSION**

**1. Purpose.** THE CENTRAL PINE BARRENS COMMISSION ("The Pine Barrens Commission" or the "PBC") and the New York Wing ("NYW") of the Civil Air Patrol ("CAP") wish to utilize the services of CAP and its volunteers for the public good. This memorandum of understanding (MOU) describes the procedures by which The Central Pine Barrens Commission may request CAP mission support as well as the terms under which missions are authorized, performed, and reimbursed. The memorandum does not, in and of itself, create any legal obligations among the parties or signatories. All previous MOU(s) between CAP and AGENCY are superseded by this agreement. *NOTE: No Counterdrug (CD) missions are authorized by this MOU.*

**2. Parties.** This MOU is between CAP, by and through New York Wing, and The Central Pine Barrens Commission.

**a. Civil Air Patrol.** CAP is a federally chartered charitable non-profit corporation. (36 U.S.C. §§40301-40307) Missions flown under this MOU are "corporate missions." Although CAP is not a government agency or military service, it acts as a volunteer civilian auxiliary of the United States Air Force (USAF) when the services of CAP are used by any department or agency in any branch of the Federal Government. Only the USAF can assign "Air Force Assigned Missions" (AFAMs) See Attachment AF for a discussion of CAP's status and missions as the Air Force Auxiliary (10 U.S.C. §§9491,9498) and procedures to request AFAMs.

**(1) New York Wing, CAP.** The New York Wing is an administrative subdivision of CAP and not a separate legal entity from CAP. CAP is generally organized along geographic lines and New York Wing's jurisdiction is defined by the boundaries of the state. Missions under this MOU will be performed by New York Wing, primarily the Long Island Group. Contact information is included as Attachment A. (The parties may update Attachment A unilaterally by e-mail or other writing.)

**(2) CAP Members.** CAP members are volunteers in public service. Members pay an annual membership fee to join and participate in CAP. "Members," as volunteers are not "employees." Although CAP may have employees in the state, their

duties as employees are administrative in nature and do not include participating in CAP missions. New York Wing may use CAP members of units from outside of New York Wing or New York to perform missions under this MOU. All CAP members shall be deemed members of WING while performing missions under this MOU and entitled to benefits of such membership that arise under this MOU.

**(3) CAP-USAF.** The United States and Civil Air Patrol - United States Air Force (CAP-USAF) are not a party to this agreement. (See Attachment AF)

**b. STATE.**

**(1) The Central Pine Barrens Commission.** The PBC was established in 1993 by the NY Environmental Conservation Law Article 57 for land use planning, including public lands in the Central Pine Barrens. The geographic definition of the Central Pine Barrens, which is the area within which the PBC has jurisdiction, is in NY Environmental Conservation Law Article S7 Section S7-0107(10). The PBC is a five-member New York State commission that consists of an appointee of the Governor of New York State, the County Executive of Suffolk County, and the Town Supervisors of the Towns of Brookhaven, Riverhead, and Southampton, located in Suffolk County, New York. The PBC and its councils and task forces have historically emphasized environmental protection and management, having produced in 1995 the Central Pine Barrens Comprehensive Land Use Plan, which includes the establishment of a Protected Lands Council and a Law Enforcement Council. One area of regional public lands stewardship includes the evaluation of the human impacts upon natural environs in an effort to avoid conflicts, and to protect and enhance the resources of these public lands, while promoting recreation. NYW-CAP is an organizational, voting member of the Law Enforcement Council. The Commission has also established, in 1995, a Wildfire Task Force.

To carry out this mission, the PBC and its associated councils and task forces provide a regional approach to management of Central Pine Barrens lands held in the public trust. The councils and task forces identify topics needing special consideration and may establish temporary or permanent subcommittees of specialists to undertake interagency programs as deemed necessary and appropriate, and share resources to the extent possible in pursuing their mutual goals. The PBC's contact information is provided in Attachment A.

**(2) Other State or Local Agencies.** Other agencies of state or local government agencies within New York that request CAP assistance may submit an abbreviated MOU (such as a letter signed by both parties) that incorporates the terms and conditions of this MOU by reference. An abbreviated MOU should refer to the MOU Registration Number on the cover page of this agreement and attach a copy of this MOU.

**(3) PBC-New York Wing Relationship.** There is no statutory

relationship between The Central Pine Barrens Commission and New York Wing of the Civil Air Patrol.

### **3. CAP Mission Capabilities & Limitations.**

#### **a. Capabilities.**

**(1) Objectives.** CAP provides an organization of private citizens equipped to respond to local and national emergencies and to serve the public welfare. (36 U.S.C. §40302) CAP can quickly organize large numbers of highly trained volunteers with ready access to up-to-date equipment to provide cost effective support to government agencies.

**(2) Operations.** NYW assistance to the PBC may include and is not limited to: aerial missions such as reconnaissance to search for victims, damage assessments, wildlife, waterways, roadways or environmental surveys utilizing visual, photographic, digital, and video techniques; airborne communications support; and airlift (subject to regulatory restrictions discussed in paragraph 3b). Other support may include: manual labor (e.g. filling sandbags for flood control); radio communications; and ground teams (typically used in search and rescue (SAR) missions) and SUAS use. Ground teams are prohibited from participating in CD or other law enforcement missions.

#### **b. Limitations.**

**(1) Priority of Missions.** AGENCY understands and acknowledges that the USAF may withdraw CAP from missions in progress under this MOU when necessary to pursue higher priority missions. This is because CAP is the official auxiliary of the Air Force, and there is a priority for employing CAP resources which may affect availability of support to state and local authorities. Priority for utilizing CAP resources is as follows: first, USAF, then other DoD departments and agencies, other Federal departments and agencies, state agencies, and finally, local agencies.

**(2) Law.** CAP does not have any special exemption from civil or criminal law. Nothing in this agreement shall be read to require any party or signatory to act in violation of the law or applicable regulations. Furthermore, none of the provisions in this MOU is intended to conflict with applicable laws, regulations, or directives governing CAP missions/activities, including but not limited to those discussed below.

**(a) Federal Aviation Regulations.** Civil Air Patrol pilots, most of whom are private pilots, are required to comply with Federal Aviation Regulations (FARs). The FARs may prohibit private pilots from flying some of the missions (including transport

missions except for certain exceptions) contemplated by this MOU. (See Attachment B, CAP Missions and Pilot Limitations)

**(b) Assistance to Law Enforcement.** CAP regulations limit assistance to law enforcement agencies to "passive assistance."

CAP members may not be deputized nor may they take an active part in arrest or detention activities and have no authority to restrict persons by means of force, active or implied.

a. CAP assistance to law enforcement agencies which may lead to criminal prosecution is restricted to patrol, reconnaissance, communications relay and reporting only. Requests for such assistance, unless of an emergency nature, must be approved in advance by the wing and region commanders and coordinated with NHQ/DO via the CAP National Operations Center (NOC) at 888.211.1812 or [opscenter@capnhq.gov](mailto:opscenter@capnhq.gov). All CAP flights will be in accordance with CAPR 70-1, *CAP Flight Management*.

**(CAPR 900-3 paragraph 3a.)**

**(c) CAP Directives.** CAP missions and activities are also limited by CAP regulations. CAP personnel are required to comply with CAP regulations. Failure of CAP members to comply with applicable regulations may result in administrative action. (See References below)

**(3) Risk Management.** CAP is an organization of non-paid volunteer citizens. As such, CAP members may decline to participate in missions or discontinue missions at any time. Additionally, CAP may decline or suspend CAP missions for any reason, including but not limited to safety, risk, and liability concerns.

**4. Emergencies.** For emergency missions in which (a) life or property are in imminent peril and (b) local resources are inadequate, please see Attachment AF for criteria and procedures for requesting an AFAM.

**5. Requesting Missions - In General.** Any and all mission requests may be submitted to the NOC at 888.211.1812 or [opscenter@capnhq.gov](mailto:opscenter@capnhq.gov). Reimbursement will be made in accordance with this paragraph and paragraph 7. Corporate missions may include, but are not limited to:

- a. Air and Ground Search and Rescue (SAR) Operations.** See Attachment AF regarding requests for air and ground SAR operations. If the Air Force declines to accept the mission, CAP may nevertheless accept the mission as a corporate mission.
- b. Mercy Missions.** Mercy missions refer to the transport of blood, organs, serum, and medical equipment necessary to relieve a specific time-critical, life-threatening situation where commercial transportation is unavailable. For more information on how to request a Mercy mission, contact the Air Force Rescue Coordination Center (AFRCC) at 800-851- 3051.
- c. Disaster Mitigation and Relief (DR) Operations.** DR missions relate to assistance needed for major disasters or emergencies (including all natural and man-made disasters such as hurricanes, floods, tornados, major storms, earthquakes, oil spills or other environmental disasters). See Attachment AF regarding requests for DR missions. If the Air Force declines to accept the mission, CAP may nevertheless accept the mission as a corporate mission.
- d. SAR/DR Training Missions.** See Attachment AF regarding requests for air and ground SAR/DR Training Missions. If the Air Force declines to accept the mission, CAP may nevertheless accept the mission as a corporate mission.
- e. Homeland Security (HLS).** See Attachment AF regarding requests for Homeland Security operations. If the Air Force declines to accept the mission, CAP may nevertheless accept the mission as a corporate mission.
- f. Aerial Reconnaissance of Ground Conditions and Surface Traffic for the PBC.** This may include visual or photographic reconnaissance of wildlife, land, forests, roadways and waterways, etc. (Note: In the event of an "environmental disaster," the PBC may be able to request an AFAM in accordance with Attachment AF). Participation of the PBC personnel in these aerial reconnaissance missions are discussed in paragraph 5g below.
- g. Agency Crewmembers.** The PBC may request CAP aircraft and aircrew as an aerial platform from which the PBC officials may perform "aerial work," as "crew members." "Aerial work" includes missions such as aerial reconnaissance of ground conditions (discussed in paragraph 5f above) or operation of an airborne repeater. PBC officials may be authorized to fly aboard CAP aircraft in accordance with CAPR 70-1. PBC officials performing aerial work or duty in the aircraft during flight are crewmembers and not "passengers."
- h. Air Transportation of Cargo and Passengers.** Air transport of cargo and/or passengers on corporate missions shall be in accordance with subparagraphs (1) and (2) below. Such missions shall be performed without reimbursement or payment of any kind from sources outside of CAP due to FAA restrictions. (Note: Transport

missions may be funded by the CAP pilot or WING but such missions may be limited due to availability of funding):

**(1) PBC Officials/Other Non-CAP Passengers.** CAP may transport PBC officials and other non-CAP passengers approved in accordance with CAPR 70- 1.

**6. Command, Control, Coordination and Cooperation:**

- a. Immediate command and control over all CAP resources and personnel employed in accordance with this MOU shall rest with CAP at all times. Mutual consent should be the norm; nevertheless, any party to this agreement may suspend or terminate CAP missions conducted pursuant to this MOU without cause.
- b. Both New York Wing and the PBC agree to maintain continual and effective communication and coordination to facilitate the training necessary for effective CAP participation with PBC emergency service personnel in disaster relief missions.

**7. Reimbursement.** Reimbursement to New York Wing for missions will be as follows:

- a. **Reimbursement for Corporate Missions.** When PBC reimbursement is required by New York Wing for missions performed under this MOU, such reimbursement shall be limited to the rates established in the current Civil Air Patrol Regulation 173-3, *Payment for Civil Air Patrol Support* Attachment 1 (a copy of which is provided as Attachment C and incorporated herein by reference). The parties agree that Attachment C, as revised from time to time by Civil Air Patrol and approved by CAP-USAF, will be the basis for determining reimbursement. Additionally, aircraft and automobile fuel and oil will be reimbursed at actual cost.
- b. **Restrictions on Billing.** Dual payment/compensation or double billing is prohibited and may not be requested or accepted. For example, if New York Wing receives or is offered state funds for aircraft operating expenses (fuel, oil, maintenance), New York Wing may not seek or accept reimbursement for the same expense from CAP National Headquarters, or from any other source (i.e. another federal agency).

**8. Liabilities: Insurance, Workers Compensation & Related Matters.**

- a. **PBC Protections.** PBC protections afforded CAP and its members such as workers compensation and/or liability protection, if any, are set forth in Attachment D.

- b. **CAP Protections.** In addition to protections afforded in paragraph 8a above (if any), CAP and its members are protected by liability insurance policies as well as member benefits described in CAP Regulation 900-5, *Civil Air Patrol Insurance/Benefits Program* and 112-10, *Indemnification*.
- c. **No Federal Protections.** CAP and its members are not deemed to be instrumentalities of the United States while performing corporate missions. Therefore, Federal Tort Claims Act (FTCA) (10 U.S.C. 9442(b) (2); 28 U.S.C. 2671 *et. seq.*) and Federal Employees Compensation Act (FECA) (5 U.S.C. 8141) do not apply.

## **9. Air Force Provisions.**

- a. The subject MOU is between CAP Corporation and the Central Pine Barrens Commission and is not an agreement with CAP as the Air Force Auxiliary.
- b. The United States Air Force has priority in the use of CAP equipment bought with appropriated funds. The priority for utilizing CAP resources is: (1) USAF; (2) Other DoD departments and agencies; (3) other Federal departments and agencies; (4) State agencies and (5) Local agencies.
- c. CAP volunteers flying missions under this MOU are not eligible for FTCA or FECA benefits.
- d. No Air Force Assigned Missions (AFAM) will be assigned pursuant to this MOU.
- e. Missions flown and funded under this MOU are not eligible for payment or reimbursement from the federal government.

## **10. Effective Date, Term, Termination, and Approval Provisions.**

**a. Effective Date.** The terms of this MOU will become effective as of the date signed by both parties.

**b. Term.** This MOU shall be effective for a period of five years from its effective date.

**c. Amendment.** This MOU embodies the entire terms and understanding of the parties and no other agreements exist between the parties except for those expressly stated herein, to include attachments cited below and executed by the parties. This MOU may be amended by written notice of either party, which expressly identifies itself as a part of this agreement and is signed by an authorized representative of each of the parties. Air Force provisions in this MOU are not subject to amendment or revision by either party. (See paragraph 9 and Attachment AF)

**d. Termination.** The parties may terminate this MOU at any time upon sixty (60) day advance written notice of termination signed by their designated representatives. Copies of the termination notice shall be mailed to the designated representatives of each of the parties at addresses shown below. (See Attachment A and the addresses below).

National Headquarters, Civil Air Patrol  
105 S. Hansell Street  
Maxwell AFB, AL 36112

Central Pine Barrens Commission  
624 Old Riverhead Road  
Westhampton Beach, NY 11978

**IN WITNESS WHEREOF, this MOU has been executed by the parties herein:**

New York Wing Civil Air Patrol

The Central Pine Barrens Commission

BY *John A. Salvador*  
John A. Salvador  
Chief Operating Officer

BY \_\_\_\_\_  
Printed Name \_\_\_\_\_  
TITLE \_\_\_\_\_

DATED: 5/4/2022

DATED: \_\_\_\_\_

Attachments:

- AF Untitled AF Involvement Attachment
- A Contact Information
- B Table: CAP Missions and Pilot Limitations
- C CAP Regulation 173-3, *Payment for Civil Air Patrol Support*, Attachment 1, Reimbursement Rates
- D CAP Form 9 Release

**References:**

Hotlinks to online sources for these citations can be found at:

United States Code <http://uscode.house.gov/search/criteria.shtml>  
10 U.S.C. §§ 9491 - 9498, (Organization and Management of Civil Air Patrol)  
36 U.S.C. §§40301 – 40307, *Civil Air Patrol*

<https://www.gocivilairpatrol.com/members/publications/indexes-regulations-and-manuals-1700>

CAP Regulation 60-3, *CAP Emergency Services Training and Operational Missions*  
CAP Regulation 70-1, *CAP Flight Management (replaced CAP R60-1, 4 Dec 17)*  
CAP Regulation 112-10, *Indemnification*  
CAP Regulation 173-3, *Payment for Civil Air Patrol Support*  
CAP Regulation 900-3, *Firearms - Assistance to Law Enforcement Officials*  
CAP Regulation 900-5, *Civil Air Patrol Insurance/Benefits Program*

## **AIR FORCE ASSIGNED MISSIONS**

1. The following are potential Air Force Assigned Missions (AFAM):

**a. Air and Ground Search and Rescue (SAR) Operations.** CAP, as the Air Force Auxiliary performs SAR missions to search for, locate, and relieve a distress situation, including overdue aircraft, emergency locator transmitters (ELTs), and persons in distress. For more information on how to request an AFAM SAR mission, contact the Air Force Rescue Coordination Center (AFRCC) at 800-851-3051.

**b. Mercy Missions.** Mercy missions refer to the transport of blood, organs, serum, and medical equipment necessary to relieve a specific time-critical, life-threatening situation where commercial transportation is unavailable. For more information on how to request a Mercy mission, contact the Air Force Rescue Coordination Center (AFRCC) at 800-851-3051.

**c. Disaster Mitigation and Relief (DR) Operations.** DR missions relate to assistance needed for major disasters or emergencies (including all natural and man-made disasters such as hurricanes, floods, tornados, major storms, earthquakes, oil spills or other environmental disasters). For more information on how to request a Disaster Mitigation and Relief mission, contact the Air Force National Security Emergency Preparedness (AFNSEP) duty officer at 800-366-0051.

**d. SAR/DR Training Missions.** SAR/DR training missions are joint training missions with CAP and the State Agency. For more information on how to request a SAR/DR training mission, contact the appropriate Assistant Director of Operations.

**e. Homeland Security (HLS).** Department of Defense and Air Force policy on HLS missions CAP may be tasked to perform in support of civil authorities is still evolving. For more information on how to request a Homeland Security mission, contact the CAP National Operations Center (NOC) at 888-211-1812 or [opscenter@capnhq.gov](mailto:opscenter@capnhq.gov).

2. For information on any other above AFAM, you may also contact the NOC at 888-211-1812.

Attachment A

**CIVIL AIR PATROL**  
**CONTACT INFORMATION**

<b>CIVIL AIR PATROL</b> Contact Information as of			
MISSION	CONTACT	PHONE & E-MAIL*	ADDRESS
Planning & Miscellaneous Search and Rescue SAR/DR Training Corporate Missions Additional Training	Col. John Jones	C: (315)723-6405 email: jjones@cap.gov	
Homeland Security (HLS) (MOU Paragraph 5e)	CAP National Operations Center	W: 888.211.1812/ 334.953.5823/ DSN 493-5823 F: 334.953.4242 DSN 493.4242 E: opscenter@capnhq.gov	

**STATE AGENCY**  
**CONTACT INFORMATION**

<b>STATE AGENCY</b> Contact Information as of			
MISSION	CONTACT	PHONE & E-MAIL*	ADDRESS
Planning & Miscellaneous & Operations	Judy Jakobsen  Julie Hargrave  Tim Huss	W: (631)563-0306 email: jjakobsen@pb.state.ny.us W: (631)218-1192 email: jhargrave@pb.state.ny.us W: (631)218-1188 C: (516)779-9349 email: Timothy.Huss@SCWA.com	
Billing	Central Pine Barrens Commission (same as above)	W: F: H: P: C: E:	Central Pine Barrens Commission 624 Old Riverhead Road Westhampton Beach, NY 11978

Attachment B  
**TABLE: CAP MISSIONS AND PILOT LIMITATIONS**

**CAP MISSIONS AND PILOT LIMITATIONS**

<b>IF THE PURPOSE OF THE FLIGHT IS</b>	<b>AND ON BOARD ARE</b>	<b>AND THE MISSION IS</b>	<b>AND THE AIRCRAFT IS</b>	<b>THEN MAY BE FLOWN BY</b>	<b>PILOT MAY BE REIMBURSED FOR</b>	<b>REFERENCE</b>
Air Force Assigned Missions (AFAMs)	Pilot crewmembers, CAP members, Armed Services, Authorized Government Employees	A or B Reimbursed or Not Reimbursed	Corporate Owned	Private Pilot	Fuel, Oil, Supplemental Oxygen, Fluids, Lubricants, Servicing, Maintenance, Per Diem	Exemption 6771
		Member Furnished	Private Pilot	In accordance with CAPR 173-3		Exemption 6771
		C Reimbursed or Not Reimbursed	See Aerial Work Operations			
	Other Passengers	A	Any	Private Pilot	Fuel, oil, airport expenditures, or rental fees	FAR 61.113(e)
		B or C Reimbursed	Any	Commercial Pilot or ATP	Any Expenses Authorized by CAP	FAR 119.1(e)(4)
		Not Reimbursed	Any	Private Pilot	<b>See Note 1</b>	FAR 61.113(a); FAR 61.113(c); FAR 119.1(e)(4); FAA Interpretation 1997-23
Aerial Work Operations (Aerial imaging, radio relay)	Crewmembers (FAR 1.1)	Any	Any	Private Pilot	<b>See Note 1</b>	FAR 61.113(a); FAR 61.113(c); FAR 119.1(e)(4); FAA Interpretation 1997-23
	Passengers or Non-CAP Property	Reimbursed	Any	Commercial Pilot or ATP	Any Expenses Authorized by CAP	FAR 119.1(e)(4)
		Not Reimbursed	Any	Private Pilot	<b>See Note 1</b>	FAR 61.113(a); FAR 61.113(c); FAR 119.1(e)(4); FAA Interpretation

Attachment B  
**TABLE: CAP MISSIONS AND PILOT LIMITATIONS (cont'd)**

1997-23						
IF THE PURPOSE OF THE FLIGHT IS	AND ON BOARD ARE	AND THE MISSION IS	AND THE AIRCRAFT IS	THEN MAY BE FLOWN BY	PILOT MAY BE REIMBURSED FOR	REFERENCE
Domestic CAP Cadet Orientation Flights IAW CAPP 52-7, AFROTC, AFIROTC Orientation Flights	Pilot, CAP Cadets, AFROTC Cadets, AFIROTC Cadets	A AF Reimbursed	Corporate Owned	Private Pilot	Fuel, Oil, Supplemental Oxygen, Fluids, Lubricants, Servicing, Maintenance, Per Diem	Exemption 6771
			Member Furnished	Private Pilot	IAW CAPR 173-3	
		B Not Reimbursed	Corporate Owned	Private Pilot	Fuel, Oil, Supplemental Oxygen, Fluids, Lubricants, Servicing, Maintenance, Per Diem	
			Member Furnished	Private Pilot	IAW CAPR 173-3	
		B Reimbursed with other than AF Funds	Any	Commercial	Any Expenses Authorized by CAP	
Overseas CAP Orientation Flights	Pilot crewmembers, CAP Cadets	Any	AF Aero Club Owned	Commercial Pilot with Instrument Rating or ATP	Any Expenses Authorized by CAP	Exemption 6771, CAPR
Transportation	Passengers or Non-CAP Property	A & B Reimbursed Or C Not Reimbursed	Any	Private Pilot	<b>See Note 1</b>	FAR 61.113(c), Interpretation 1997-23
			Commercial Pilot	Any Expenses Authorized by CAP		
		C Reimbursed	Any	Not Authorized - Part 135	N/A	FAR 119.1

**Note 1:** Pilot may not receive reimbursement, but pilot may log flight time.

**Note 2:** Exemptions cited reflect the current extension (A, B, C, etc.).

Attachment C  
**CAPR 173-3, ATTACHMENT 1, REIMBURSEMENT RATES**



OFFICE OF THE NATIONAL COMMANDER  
CIVIL AIR PATROL  
UNITED STATES AIR FORCE AUXILIARY  
MAXWELL AIR FORCE BASE, ALABAMA 36112-5937

ICL 19-09  
4 December 2019

MEMORANDUM FOR ALL CAP UNIT COMMANDERS

FROM: CAP/CC

SUBJECT: Interim Change Letter – CAPR 173-3, Payment for Mission Support

1. The following changes will be implemented immediately in order to avoid missions being planned or executed with outdated information:

The \$15 per flying hour charge for handheld camera systems for external customers has been deleted. Attachment 1, Note 8 is changed to:

**8. Cost estimates for the use of leased imagery collection systems or deployable systems maintained by the national headquarters operations directorate will be developed by CAP/DO based on validated requests for support made through the NOC. Costs can vary considerably due to several factors like the size of the area to be collected, resolution of the imagery required by the customer, and the processing necessary to create desired output formats. Wings are encouraged to contact the NOC as soon as there are indications of potential need so that CAP/DO can determine availability and develop cost estimates to meet customer needs. Systems can normally be deployed within 24 to 72 hours of validated mission requirements and customer funding approval to begin operations, but greater lead time is always advantageous as CAP/DO may be able to reduce costs by avoiding expensive shipping or sourcing other processing options.**

Attachment 1, Note 10 is deleted. Aircraft maintenance for approved national flight academies is now managed with other aircraft maintenance requirements by CAP national headquarters.

2. Any questions can be directed to CAP's Director of Operations, John Desmarais, at [jdesmarais@capnhq.gov](mailto:jdesmarais@capnhq.gov) or 334-953-9105.

MARK E. SMITH  
Major General, CAP  
Commander

cc:  
CAP/CV/XO/CCC/COO/COA/DA/DO/FM/GC/IT/LG/NOC  
All CAP Region and Wing CV/CS/DC/DO/DOC/DOH/DOS/DOU/DOV  
CAP-USAF/CC/CV/DO/FM/JA/LRs

Attachment C  
**CAPR 173-3, ATTACHMENT 1,**  
**REIMBURSEMENT RATES. cont'd**

**Table 1. "Dry" Hourly Reimbursement Rates for all sorties flown on or after 1 October 2018 on CAP or member-funded missions**

Manufacturer	Cessna 172	Cessna 182	Cessna A185F	Cessna 206	Gippsland GA-8	Maule MT-7-235
Model	172	182	A185F	206	GA-8	MT-7-235
Cost/hour	\$56	\$62	\$110	\$87	\$83	\$58

Attachment 1, Table 2 is changed to:

**Table 2. "Dry" Hourly Reimbursement Rates for all sorties flown on or after 1 October 2018 on externally funded missions**

Manufacturer	Cessna 172	Cessna 182	Cessna SP 182Q	Cessna A185F	Cessna 206	Gippsland GA-8	Maule MT-7-235
Model	172	182	SP 182Q	A185F	206	GA-8	MT-7-235
Cost/hour	\$72	\$92	\$168	\$181	\$91	\$85	\$72

Delete Attachment 1, "Comprehensive rates..." note.

Insert the following within Attachment 1, between the Table 2 and the Notes section:

The glider rate per launch for CAP or member-funded sorties flown on or after 1 October 2018 is \$10. The glider rate per launch for externally funded missions is \$12. Tow or launch costs are still processed separately (See note 5, 6 and 7).

The balloon rate per hot hour for CAP or member funded sorties flown on or after 1 October 2018 is \$38. The balloon rate per hot hour for externally funded missions is \$48. Fuel and other associated launch and recovery costs are still processed separately.

Attachment 1, Note 1 is changed to:

1. "Basic Hourly Rate" for single-engine member-owned/furnished aircraft not listed above is \$56. The basic glider rate per launch for member-owned/furnished gliders not listed above is \$10. The basic balloon rate per hot hour for member-owned/furnished balloons not covered above is \$38.

Attachment 1, Note 8 is changed to delete "other than ARCHER (see note 9)" from the first sentence.

Attachment 1, Note 9 is changed to:

9. Small Unmanned Aircraft System (sUAS) Rates. CAP will charge \$25 per operating hour for sUAS, but only when supporting missions that are not funded with CAP's annual Congressional

Attachment C  
**CAPR 173-3, ATTACHMENT 1,**  
**REIMBURSEMENT RATES. cont'd**



OFFICE OF THE NATIONAL COMMANDER  
CIVIL AIR PATROL  
UNITED STATES AIR FORCE AUXILIARY  
MAXWELL AIR FORCE BASE, ALABAMA 36112-5937

ICL 19-07  
1 October 2019

MEMORANDUM FOR ALL CAP UNIT COMMANDERS

FROM: CAP/CC

SUBJECT: Interim Change Letter – CAPR 173-3, Payment for Mission Support

1. It is critical that aircraft rate changes happen with the fiscal year change. This interim change letter replaces ICL 18-08 and will remain in effect until a new regulation is complete and published in FY20; there is no expiration date on this change letter.
2. Each year the staff reviews the reimbursement rates and procedures in CAPR 173-3. The following changes (noted in grey) are effective on the 1<sup>st</sup> of October 2019:

Attachment 1, Table 1 is changed to:

**Table 1. "Dry" Hourly Reimbursement Rates for all sorties flown on or after 1 October 2019 on CAP or member-funded missions**

Manufacturer	Cessna	Cessna	Cessna	Cessna	Gippsland	Mauler
Model	172	182	A185F	206	GA-8	MT-7-235
Cost/hour	\$62	\$70	\$110	\$103	\$98	\$64

Attachment 1, Table 2 is changed to:

**Table 2. "Dry" Hourly Reimbursement Rates for all sorties flown on or after 1 October 2019 on externally funded missions.**

Manufacturer	Cessna	Cessna	Cessna	Cessna	Cessna	Cessna	Gippsland	Mauler
Model	172	182	SP 182Q	A185F	206	SP 206	GA-8	MT-7-235
Cost/hour	\$74	\$96	\$188	\$188	\$139	\$211	\$128	\$74

Attachment 1, Note 1 is changed to:

1. "Basic Hourly Rate" for single-engine member-owned/furnished aircraft not listed above is \$62. The basic glider rate per launch for member-owned/furnished gliders not listed above is \$10. The basic balloon rate per hot hour for member-owned/furnished balloons not covered above is \$38.

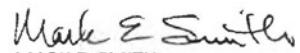
Attachment 1, Note 8 is changed to:

**8. CAP will charge an additional \$15 per flying hour to operate and maintain carry aboard or handheld camera systems on Airborne Photography (AP) sorties in WMIRS for external customers (FEMA, State agencies, etc.) unless operations are being funded by CAP's annual Federal appropriation. The money collected for these operations must be forwarded to NHQ to support the systems that NHQ provides to the wings. The hourly charge to operate these systems will begin when the aircraft departs to execute the sortie and ends when the aircraft returns. The rate will not be charged on relocation (RELO) flights to/from the home base and other operating sites unless airborne photography operations are conducted en route; if**

Attachment C  
**CAPR 173-3, ATTACHMENT 1, REIMBURSEMENT RATES. cont'd**

appropriation, when members are funding training personally, or when customers are providing equipment for CAP to operate.

3. Any questions can be directed to my Director of Operations, John Desmarais, at [jdesmarais@capnhq.gov](mailto:jdesmarais@capnhq.gov) or 334-953-9105.



MARK E. SMITH  
Major General, CAP  
Commander

cc:  
CAP/CV/COO/COA/DA/DO/FM/GC/IT/NOC  
All CAP Region and Wing CV/CS/DC/DO/DOC/DOH/DOS/DOV  
CAP-USAF/CC/CV/DO/FM/JA/LRs

Attachment C  
**CAPR 173-3. ATTACHMENT 1. REIMBURSEMENT RATES (cont'd.)**



OFFICE OF THE NATIONAL COMMANDER  
CIVIL AIR PATROL  
UNITED STATES AIR FORCE AUXILIARY  
MAXWELL AIR FORCE BASE, ALABAMA 36112-5937

ICL 18-08  
1 October 2018

MEMORANDUM FOR ALL CAP UNIT COMMANDERS

FROM: CAP/CC

SUBJECT: Interim Change Letter – CAPR 173-3, Payment for Mission Support

1. It is critical that aircraft rate changes happen with the fiscal year change. This interim change letter replaces ICL 17-07 and will remain in effect until a new regulation is complete and published in FY19; there is no expiration date on this change letter.
2. Each year the staff reviews the reimbursement rates and procedures in CAPR 173-3. The following changes are effective on the 1<sup>st</sup> of October 2018:

Paragraph 1.1.2.3 is changed to:

1.1.2.3. Wings may charge up to 10% more than the published reimbursement rates for members to fly CAP aircraft, but may not charge less than this rate unless they are supplementing and make it whole with funds obtained from other sources. Each wing must collect and set aside the published rates as noted in Attachment 1 for each aircraft as it is flown. This will ensure there is enough money available to cover the reasonable costs of repair.

Paragraph 1.1.2.4. is changed to delete “Wings not on the Consolidated Maintenance Program must track all non-NHQ-reimbursed aircraft maintenance income and expenses.”

Paragraph 2.5 is changed to:

2.5. Wings will not schedule/perform any appropriated funded training missions, subordinate unit inspections or CAP cadet orientation flights in the last 4 days of September, so that an accurate accounting of all expended training funds can be accomplished. The final day for funded training, subordinate unit inspection, and cadet orientation flight operations for each fiscal year is the 26th of September. Wings should be exceptionally diligent to have all mission reimbursement requests turned in as quickly as possible, especially during the month of September. Wings may not be reimbursed if sortie information is not properly recorded in WMIRS within 72 hours as required by paragraph 2; all training, subordinate unit inspection and cadet orientation flight budget balances will be pulled back no later than the morning of September 30th in order to close out the fiscal year. Prompt processing of reimbursement requests will ensure CAP is able to fully utilize all the funding it receives from the Air Force.

Attachment 1, Table 1 is changed to:

Attachment C

**CAPR 173-3, ATTACHMENT 1, REIMBURSEMENT RATES (cont'd.)**

appropriation, when members are funding training personally, or when customers are providing equipment for CAP to operate.

3. Any questions can be directed to my Director of Operations, John Desmarais, at [jdesmarais@capnhq.gov](mailto:jdesmarais@capnhq.gov) or 334-953-9105.

*Mark E. Smith*  
MARK E. SMITH  
Major General, CAP  
Commander

cc:  
CAP/CV/COO/COA/DA/DO/DO/FM/GC/IT/NOC  
All CAP Region and Wing CV/CS/DC/DO/DOC/DOH/DOS/DOV  
CAP-USAF/CC/CV/DO/DO/FM/DO/DOV

**Attachment D**  
**CAP Form 9 Release**

RELEASE

Mission Number:

Mission Symbol:

Serial Number:

PART I

RELEASE \* (For Non-CAP Members)

KNOW ALL MEN BY THESE PRESENTS: WHEREBY I,

about to take a flight or flights in certain Civil Air Patrol/United States of America instrumentality aircraft on or about \_\_\_\_\_ and whereas I am doing so entirely upon my own initiative, risk, and responsibility; now, therefore, in consideration of the permission extended to me by the Civil Air Patrol/United States of America through its officers and agents to take said flight or flights, I do hereby for myself, my heirs, executors, and administrators release and forever discharge the Civil Air Patrol, Inc./United States of America, and all its officers, agents, and employees acting official or otherwise, from any and all claims, demands, actions, or causes of action, on account of my death or on account of any injury to me or my property which may occur as a result of the negligence of the Civil Air Patrol/United States of America, its agents or employees during said flight or flights or continuances thereof, as well as all ground and flight operations incident thereto.

DATE

(SIGNATURE OF RELEASOR)

(SIGNATURE OF WITNESS)

(NAME OF PERSON TO BE NOTIFIED IN EMERGENCY)

SIGNATURE OF WITNESS)

(ADDRESS OF PERSON TO BE NOTIFIED IN EMERGENCY)

PART II

RELEASE \* (For Parents of Minors)

KNOW ALL MEN BY THESE PRESENTS: WHEREBY my Child(ren), \_\_\_\_\_

is (are) about to take a flight or flights in certain Civil Air Patrol/United States of America instrumentality aircraft on or about \_\_\_\_\_ and whereas he/she is doing so entirely upon his/her own initiative, risk, and responsibility; and with full knowledge and approval; now, therefore, in consideration of the permission extended to my child(ren) by the Civil Air Patrol/United States of America through its officers and agents to take said flight or flights, I do hereby for myself, my heirs, executors, and administrators release and forever discharge the Civil Air Patrol, Inc./United States of America, and all its officers, agents, and employees acting official or otherwise, from any and all claims, demands, actions, or causes of action, on account of the death or on account of any injury to my child(ren) which may occur as a result of the negligence of the Civil Air Patrol/United States of America, its agents or employees during said flight or flights or continuances thereof, as well as all ground and flight operations incident thereto.

DATE

(SIGNATURE OF PARENT/GUARDIAN) \*\*

(SIGNATURE OF WITNESS)

(SIGNATURE OF PARENT/GUARDIAN) \*\*

SIGNATURE OF WITNESS)

\* Complete appropriate part(s) of this form.

\*\* All parents/guardians must sign.

**Item 2a:**  
**Friends of Wertheim MOU**



## Central Pine Barrens Joint Planning and Policy Commission Meeting

Wednesday, June 15, 2022

Brookhaven Town Hall

1 Independence Hill

Farmingville, NY

### Draft Resolution to Approve the Indemnification and Insurance Agreement between the Friends of Wertheim and the Central Pine Barrens Joint Planning and Policy Commission

Present: (for Suffolk County)  
(for Brookhaven Town)  
(for Riverhead Town)  
(for Southampton Town Supervisor)

Yvette Aguiar  
*Member*

Steven Bellone  
*Member*

Edward P. Romaine  
*Member*

Jay H. Schneiderman  
*Member*

**Whereas**, through an agreement with the US Fish and Wildlife Service (USFWS), the Commission provides environmental education staff to manage and conduct the Barrens to Bay Summer Camp program at the USFWS Wertheim National Wildlife Refuge, and

**Whereas**, the Friends of Wertheim National Wildlife Refuge (FOW) is a private, non-profit organization dedicated to the enduring protection, management and appreciation of Wertheim National Wildlife Refuge and its environs and serves as the fiscal agent for the camp and provides back-office services in support of the camp, and

**Whereas**, the Commission and FOW have worked together over the years in various roles to support the camp and both parties wish to continue this beneficial partnership by entering into an indemnification and insurance agreement that includes clarification of the roles and responsibilities of the Commission and FOW related to the operation of the camp, contained in Exhibit A of the agreement; now therefore be it

**Resolved**, that the Commission hereby approves the Indemnification and Insurance Agreement between the Friends of Wertheim and the Commission and authorizes the Executive Director to sign and execute on behalf of the Commission.

**Motion by:**

**Second by:**

**Ayes:**

**Nays:**

**Abstentions:**

624 Old Riverhead Road  
Westhampton Beach, NY  
11978

Phone (631) 288-1079  
Fax (631) 288-1367  
[www.pb.state.ny.us](http://www.pb.state.ny.us)

**INDEMNIFICATION AND INSURANCE AGREEMENT  
BETWEEN  
THE FRIENDS OF WERTHEIM  
AND THE  
CENTRAL PINE BARRENS JOINT PLANNING AND POLICY COMMISSION**

This Agreement is made the \_\_\_\_ day of June, 2022, between the Friends of Wertheim National Wildlife Refuge, Inc., with a current address of P.O. Box 376, Brookhaven, New York 11719, hereinafter “FOW” and the Central Pine Barrens Joint Planning and Policy Commission, with offices at 624 Old Riverhead Road, Westhampton Beach, New York 11978, a public entity created pursuant to Article 57 of the New York State Environmental Conservation Law, hereinafter the “Commission” each a “Party” and taken together the “Parties.”

**WITNESSETH:**

Whereas, FOW is a New York not-for-profit that is party to a Friends Partnership Agreement between the Long Island National Wildlife Refuge Complex, U.S. Fish and Wildlife Service Department of the Interior and The Friends of Wertheim National Wildlife Refuge, Inc. dated as of August 16, 2019.

Whereas, the Commission is a public entity that is a party to a Memorandum of Understanding with the Long Island National Wildlife Refuge Complex, U.S. Fish and Wildlife Service Department of the Interior dated as of April 21, 2022.

Whereas, the Commission sponsors and offers the Barrens to Bay Summer Camp Program, (the “Program”) at the Wertheim National Wildlife Refuge (the “Refuge”) for students from ages six to twelve (each a “Program Participant”).

Whereas, the Commission manages the Program, organizes the registration, selects and supervises the staff, and conducts the programming, and FOW serves as the Program’s fiscal agent, providing back-office services such as accounting and payroll.

Whereas, the respective responsibilities of the Commission and FOW with respect to the Program are more fully set forth in the agreed Statement of Procedures annexed hereto as Exhibit A.

Whereas, the Commission and FOW wish to enter into a five-year agreement setting forth certain understandings with respect to indemnification and insurance.

Now therefore the Parties agree as follows:

1. The above recitals are incorporated herein.
2. The Commission shall provide its services with respect to the Program that are set forth in Exhibit A, and FOW shall provide the services to the Commission that are set forth in Exhibit so that the Program may operate.
3. Each Party shall, at their sole cost and expense procure and maintain insurance coverage provided by an Insurance Company licensed as an “admitted carrier” by the New York State Insurance Department and rated by “Bests” at “A-” or better, or as otherwise deemed acceptable to the other Party.

Insurance coverage shall be evidenced by a Certificate of Insurance submitted in a form acceptable to the insured Party. On or before June 1<sup>st</sup> of each year during the term of this agreement, (a) the Commission shall furnish FOW with a Certificate of Liability Insurance (Acord) designating FOW as an additional insured on a primary and noncontributory basis under its Commercial General Liability policy, and (b) FOW shall furnish the Commission with a Certificate of Liability Insurance (Acord) designating the Commission as an additional insured with respect to the Barrens to Bay Summer Program, on a primary and noncontributory basis under FOW's Commercial General Liability policy. Contractual Liability Insurance as specified in paragraph A to follow, shall be provided to insure the indemnification provisions of this agreement.

The interest of each Party, as additional insured and as primary insurance with no responsibility for payment of premium shall be added to all policies, other than Workers' Compensation and Professional Liability.

The insured Party must be notified of any impairment of any of the above limits at the inception of or during the Agreement.

Coverage shall be obtained, and maintained throughout the life of the Agreement as follows:

A. General Liability:

Form: Commercial General Liability (1986 ISO occurrence form or equivalent), including separate limits for Personal Injury, Products/Completed Operations. Coverage to include Contractual Liability.

Limits: \$1,000,000 per occurrence/\$2,000,000 general aggregate.

B. Excess Liability:

Limit: \$1,000,000 on a form which follows the underlying coverage.

5. FOW shall indemnify and hold harmless, to the extent permitted by law, the Commission, its members, officers, agents, and employees (collectively the "Commission Indemnified Parties") from and against all suits, liabilities, losses, demands, payments, actions, proceedings, recoveries, judgments, costs, and expenses of every kind (including reasonable legal fees and expenses) commenced or threatened, arising from injuries to persons or property arising directly by FOW's carrying out of its responsibilities with respect to the Program as set forth in Exhibit A (or its failure to carry out such responsibilities) (each a "Claim")

FOW shall indemnify, and save harmless to extent permitted by law, the Commission Indemnified Parties from each Claim which may be brought or instituted by any FOW subcontractor who furnished services to FOW in performance of the services FOW provides to the Commission in accordance with Exhibit A.

FOW, upon the Commission Indemnified Parties's demand, shall, at its cost and expense, including its attorney's fees and other costs of legal defense, defend and hold the Commission Indemnified Parties harmless from any Claim.

FOW's obligations under this provision shall not be applicable to any Claim caused by the negligence, willful acts, or omission or any combination of the same of the Commission

**Indemnified Parties.**

This provision, and FOW's rights and obligations thereunder, shall survive the termination or expiration of this Agreement.

6. The Commission shall indemnify and hold harmless, to the extent permitted by law, FOW, its members, board members, officers, agents, and employees (collectively the "FOW Indemnified Parties") from and against all suits, liabilities, losses, demands, payments, actions, proceedings, recoveries, judgments, costs, and expenses of every kind (including reasonable legal fees and expenses) commenced or threatened, arising from injury to persons or property arising directly by Commission's carrying out of its responsibilities with respect to the Program as set forth in Exhibit A (or its failure to carry out such responsibilities) (each a "Claim").

The Commission shall indemnify, and save harmless to extent permitted by law, the FOW Indemnified Parties from each Claim which may be brought or instituted by any subcontractor, material man or laborer who has performed work or furnished materials in the performance of Commission obligations under this Agreement.

The Commission, upon the FOW Indemnified Parties's demand, shall, at its cost and expense, including its attorney's fees and other costs of legal defense, defend and hold the FOW Indemnified Parties harmless from any Claim.

The Commission's obligations under this provision shall not be applicable to any Claim caused by the negligence, willful acts, or omission or any combination of the same of the FOW Indemnified Parties.

This provision, and the Commission's rights and obligations thereunder, shall survive the termination or expiration of this Agreement.

7. No special relationship or duty is created between the Commission and the FOW by this Agreement.
8. Any notice or demand which under the provisions of this Agreement or otherwise may or must be given or made shall be in writing and may be given or made by mailing the same by registered mail or certified mail.

Those addressed to FOW:

President  
Friends of Wertheim, Inc.  
P.O. Box 376  
Brookhaven, New York 11719  
Email: [wertheimfriends@gmail.com](mailto:wertheimfriends@gmail.com)

and those to the Commission:

Judith Jakobsen  
Executive Director  
Central Pine Barrens Joint Planning and Policy Commission  
624 Old Riverhead Road  
Westhampton Beach, New York 11978  
Tel: 631-288-1079

Fax: 631-224-7653  
Email: jjakobsen@pb.state.ny.us

9. This Agreement may be terminated at any time by either party on thirty (30) days written notice to the non-terminating party. Unless otherwise terminated earlier, this Agreement shall expire on December 31, 2026.
10. The Parties acknowledge that they have had the opportunity to have counsel of their choosing review this Agreement. Regardless of any contrary rule of construction, no provision or alleged ambiguity of this Agreement shall be construed in favor of one of the Parties because it was drafted by the other party or their attorney.
11. This Agreement contains the entire agreement of the Parties with respect to the subject matter of this Agreement, and supersede all prior negotiations, agreements, and understandings with respect thereto whether oral or written or established through past practice. This Agreement may only be amended by a written document duly executed by the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and to be effective as of the date first above written.

Friends of Wertheim National  
Wildlife Refuge, Inc.

By: \_\_\_\_\_  
Name: Annelies Kamran  
Title: President

Central Pine Barrens Joint Planning and Policy  
Commission

By: \_\_\_\_\_  
Name: Judith Jakobsen, Executive Director

## **Exhibit A**

### **Barrens to Bay Summer Camp**

#### ***STATEMENT OF PROCEDURES***

#### ***General Information***

The U.S. Fish and Wildlife Service hosts the Barrens to Bay summer camp at Wertheim National Wildlife Refuge, the Central Pine Barrens Commission (CPBC) manages the camp, organizes the registration, selects and supervises the staff, and conducts the programming, and the Friends of Wertheim serves as the camp's fiscal agent, providing back-office services, such as accounting and payroll. The Visitor Services Manager represents the U.S. Fish and Wildlife Service; the Education and Outreach Coordinator represents the CPBC; and the Treasurer and the President represent the Friends of Wertheim.

Because the Barrens to Bay camp takes place on federal property, a Suffolk County Health Department summer camp permit is not legally required. However, the CPBC operates the camp under related Health Department guidelines. Guidelines include a camper to counselor ratio (8:1), CPR/First aid requirements, background checks, and all safety mandates.

Camp registration tends to book up 95% by May (at the latest). Weeks dedicated to the 10-12 age group tend to book up last. In the event that there are extra spots when camp starts, the CPBC Coordinator typically fills these weeks with returning campers who have greatly enjoyed their previous camp experience. Programming includes the same fun activities each week, with slight differences depending on the dynamics of the camper group, weather, and natural history opportunities.

The CPBC Coordinator partners with Colonial Youth and Family Services to provide a free scholarship to one camper each week. Colonial Youth and Family Services identify the camper and sends the CPBC Coordinator the completed registration form.

## *Timeline and procedures*

### **January/February**

1. Prior to distributing the camp registration, the Wertheim National Wildlife Refuge staff, and the Friends of Wertheim (FOW) board must approve the materials. The CPBC Coordinator provides FOW the registration information no later than the January board meeting. By obtaining board approval at the January board meeting, the CPBC Coordinator can send materials out by the first week of February. Typically, the only thing that changes on the flyer each year is updating the dates for the current year and the registration fee (if desired). We do keep a waiting list and all registrations are on a first come, first served basis. No saving spots, without payment is allowed.
2. In January, the Treasurer of the FOW files all necessary Federal tax paperwork required for the previous year's Counselors and Counselors-in-Training (CITs). Currently, the Counselor and CITs are considered contractors and 1099-NEC forms are filed for them if they earn \$600 or more during the previous year.
3. Previous camper families begin inquiring about registration materials in January, and other summer camps in the local area (e.g. YMCA, Suffolk County Farm, Quogue Wildlife Refuge and CED) begin sending out their registration at this time as well (if not before). Sending the flyer out in a timely fashion provides families the opportunity to register for the Barrens to Bay camp, as they will have several other summer camp options available to them. Most working families like to register their children early in the season so they can secure a spot. The CPBC Coordinator and Refuge Visitor Services Manager work together in early February to distribute the camp registration flyer to all contacts including libraries. If registrations are lacking by April, the CPBC Coordinator and Refuge Visitor Services Manager disperses the registration flyer to elementary schools in the surrounding areas.
4. When determining the summer camp schedule, the CPBC Coordinator should keep in mind the federal July 4th holiday. If the holiday falls on a weekday, the CPBC Coordinator may consider a reduced week and resulting reduced fee. Summer camp typically runs for a six-week period, but a seven-week period is also an option.
5. In late January/early February, the CPBC Coordinator updates the Barrens to Bay registration binder to prepare to receive the registration forms. Preparations include printing new weekly forms to add registrants' information and Counselor in Training (CIT) information, which can easily be adapted to an electronic form.

6. Once registrations start coming into the CPBC office the procedure is as follows (this will continue to take place as long as slots remain available during camp):

a. Make a copy of the check and registration form. One copy goes into the binder, filed alphabetically; one copy WITH CHECK is paper clipped and put in 9x12 envelope to be kept in the office until brought to the Friends of Wertheim. Once checks come in, create a deposit spreadsheet in the appropriate computer file. Include the date, last name and amount of check. The CPBC Coordinator hand delivers the checks to Wertheim and puts them in the Friends mailbox or drops at another designated location (e.g. the Treasurer's home).

b. Add names to the weekly forms with age of camper, identify if payment has been received, and include the date the camper registration packet was mailed out. Once the fee has been paid and registration form in, immediately send out the camper registration packet (this can be sent out electronically if preferred). Parents MUST return these forms at least two (2) weeks prior to their camp date. Timely response enables the CPBC Coordinator to partner campers with the appropriate buddy; as well as prepare for any medical, personal, or learning disability issues.

c. Camper registration packet includes:

- Description of program, rules and needs- it also will be the document the parents have with confirmed week their camper will attend camp
- General camper information sheet – personal information and emergency contacts
- Medical form – Insurance information, medical issues, allergy issues, and other pertinent information
- Photo Release form

7. Although parents should return forms at least two (2) weeks before the start date of their camp week, some parents return them immediately, some several weeks prior to camp, some just days prior to their camp date and some forget to send them. As mentioned before, because the Suffolk County Health Department requires this information of all summer camps, all forms MUST be returned for the camper to attend the camp. For those forms not returned, the CPBC Coordinator may choose to give parents a courtesy call the week before their camp week starts to remind parents to bring the forms in person the first day of camp. If they mail them in, they may not reach the office in time, so it is better for parents to hand deliver the first day of camp.

8. Upon receipt of the checks from the CPBC Coordinator, the Treasurer of FOW inspects the checks to ensure that they have been made out properly and will be accepted by the bank, endorses each check and enters the data on each check into the FOW financial system. The

checks are then bundled and deposited in the bank within a week of receipt from the CPBC Coordinator.

### **March/April**

9. The CPBC Coordinator should select and confirm the counselor (see Appendix for job description) as soon as possible. The counselor from previous years may return or the CPBC Coordinator may need to send out a vacancy announcement email via CPBC/Wertheim and FOW contacts.

- An email between the CPBC coordinator and the Counselor confirming the hourly rate and approximate hours worked. The email will be also sent to the FOW Treasurer.
- The counselor will work approximately 30 hrs. per week (approx. 8:30am – 3:00pm), Monday – Friday (most days they can leave when all the cleanup is done, which is at approximately 2:30). The counselor will provide his/her hours to the CPBC coordinator each Friday after camp. The CPBC coordinator will confirm the hours worked to ensure the accurate payment amount is provided in the weekly paycheck and will email the approval of the hours to the FOW Treasurer. The Treasurer will send a payment statement and check out to the Counselor within 48 hours of receiving the approval to pay from CPBC Coordinator.

10. The CPBC Coordinator can select and confirm CITs (see Appendix for job description) at this time as well. The CPBC files include a list of all previous CITs and their respective contact information. A majority of the CITs are volunteers. Some may be paid for the work they perform on a flat weekly basis. Most CITs are former campers. Although they are familiar with the camp, the CPBC Coordinator should conduct a conversational interview to go over protocols, expectations, and the job description. A document has been created with the rules and expectations of the CITs that all must sign prior to starting (see Appendix for documents).

- The CPBC Coordinator requires the CITs to work a full week or weeks. Partial weeks become too time consuming to track different CITs on different days, etc. The CPBC Coordinator may use their discretion to excuse CITs due to illness, a previous obligation, etc. Ultimately, most CITs are volunteers, and we are grateful to have their assistance
- If the CIT receives compensation for work performed during a week, the CPBC Coordinator will inform the FOW Treasurer each Friday via an email that the previously

agreed upon weekly amount for the CIT should be paid. The Treasurer will send a statement and a check to the CIT for the agreed upon weekly amount within 48 hours of receiving the request to pay from the CPBC coordinator.

11. The Counselor must fill out the following forms to be given to the Refuge Visitor Services Manager (i.e., Declaration for Federal Employment and United States Department of the Interior Volunteer/Contractor Information Sheet) and submit to any required background checks. In addition, the Counselor must fill out a W-9 to be given to the FOW Treasurer.

All CITs must fill out all the same forms the campers fill out, including contact information, emergency contacts and medical forms. The MOU with Wertheim also requires them to fill out a Volunteer Services Agreement (VSA) and track all their volunteer hours. The CPBC Coordinator will return all VSA forms and hours to the Visitor Services Manager. CITs may also need copies of forms and hours to satisfy school and/or extracurricular program needs.

Any CITs receiving compensation for work rendered while at camp must fill out a W-9 to be given to the FOW Treasurer. Any CIT receiving money during the camp that is less than \$600 will NOT receive a 1099-NEC the following January. Any CIT receiving \$600 or more will receive a 1099-NEC

## **April/May**

12. The CPBC Coordinator updates the camp curriculum and schedule with new activities, observations, and hands-on programming. The campers (with a 99% return rate) love camp programming, yet it is important to keep it fresh, fun, engaging and interesting.

- Brainstorm interesting options, research other camps, identify potential speakers/guests, bring new ideas to the table.

13. The CPBC Coordinator creates a list of program supplies to purchase and provides this list to the Visitor Services Manager for purchasing. The list includes the quantity of each item, the web address where the item can be ordered and the price of items. The CPBC Coordinator ensures that the supplies requested for the summer do not exceed the total budgeted amount. As safeguard, because the differences can occur from time to time between the ordered cost of an item and the final delivery cost, and the needs for camp purchases vary from year to year, the FOW Treasurer will inform the CPBC Coordinator if and when the orders to date are nearing the budgeted limit.

14. The Visitor Services Manager orders the camp program supplies using the FOW credit card. The Visitor Services Manager provides all invoices to the FOW Treasurer and CPBC Coordinator. As supplies arrive at the refuge, the Visitor Services Manager stores them in the

Environmental Education room. The CPBC Coordinator checks the supply orders prior to camp and confirms that the packing lists match the orders.

15. The CPBC Coordinator recruits and identifies any additional FOW volunteers needed to support camp. These volunteers may be required to complete Federal paperwork and background checks as designated by Refuge Visitor Services Manager.
16. The CPBC coordinator will provide the FOW the certificate of liability insurance that identifies FOW as additional insured each year.

### **June**

17. With assistance from the counselor trainee and CITs, the CPBC Coordinator cleans/organizes/prepares the Environmental Education room by doing the following: set up animal skull/pelt touch table; set up camp director's table with printer; add posters to the walls (painters tape only); put paper on all three sections of tables; set up microscopes; clean out cubby holes for their bags, etc.; organize pens and pencils for the tables; make copies of crosswords/coloring sheets for tables; have natural history documentaries ready to play; create a "Welcome to Barrens to Bay camp" sign with a sandwich board and update the Barrens to Bay jeopardy board.
18. The CPBC Coordinator organizes a staff training day to go over teaching methods, the week's schedule, activities, and details of expectations, etc. The CPBC Coordinator asks the staff to decide which part of the camp they would like to lead and/or assist.

### **June - August**

19. Before camp each week, the CPBC Coordinator prepares name tags for the upcoming week and labels cubby holes with camper names. Name tag templates are in the files. The CPBC Coordinator also creates the buddy list and seating chart, incorporating any buddy requests. Buddies can be in groups of two or three. This is important for the seating organization and for security "buddy" checks throughout the day, especially when the group is outdoors.
20. Each morning the CPBC Coordinator prepares the room by displaying the daily theme on the screen via a power point; have all interactive options (e.g. puzzles, games, etc.) out for the campers before they arrive: showing documentary on TV; and organizing all skulls and pelts on the back table. Camp staff also put out the sandwich board sign by the walkway to welcome campers as they arrive.
21. All CITs should interact with campers as they arrive. The goal is to reduce any camper anxiety and do all the staff members can to make them feel comfortable. The CPBC Coordinator

makes sure that a variety of options are available to accommodate a variety of learning styles: documentary for the camper who feels most comfortable learning alone; puzzles for those campers who like to work with others; microscopes, furs, skulls, and other items for exploration for the curious; and coloring sheets on the tables, and a table for painting a poster, so campers have something to do at all times. If a camper seems to be all alone with no friends as of yet, CITs should engage them in conversation.

22. See Camp Schedule for additional details on daily activities.
23. Camp ends at 2pm. The CPBC Coordinator should keep doors closed until campers are ready to leave. Once doors are open, individuals picking up campers NEED to be on the pickup list (except parents/guardians). If not, the CPBC Coordinator must call the parents/guardian for permission. Under no circumstances are campers to leave with someone that is not on the list.
24. After camp, the entire camp support staff clean and prep for next day before leaving. Clean and prep includes wiping down surfaces, sweeping, re-organizing the table items, bringing in sandwich board, having name tags back on tables, etc. Most days, the camp support staff leaves by 2:30pm.
25. On Friday's have everything ready for Monday. Replace the paper on the two camper tables, put up the painted poster, seating chart and buddies organized, new name tags out and new names on cubbies.
26. Each morning, the CPBC Coordinator picks up the designated key in the front office and returns the key to the same spot at the end of the day. Before leaving, the CPBC Coordinator makes sure all doors to the outdoors are closed and locked. The double door of the EE room will not always lock, so the CPBC Coordinator must check from the outside that it is secured.

## **September – October**

27. The FOW budget approved at the FOW November meeting includes a section for the Barrens to Bay summer camp. This section will have been mutually agreed upon in advance by the CPBC Coordinator and the FOW Treasurer as based on reasonable projections of income and expense. It will include:
  - a. Projected income based upon the number of camp participants expected, a mutually agreed upon weekly rate, and the number of weeks the camp is expected to last.
  - b. Projected expenses, including those for both supplies and staffing (i.e., Counselor and CITs). Based upon previous years/expenditures, the CPBC Coordinator and the FOW Treasurer will determine reasonable amounts to be budgeted for both supplies and staffing.

c. Once the CPBC Coordinator and FOW Treasurer agree that the projected income and expenses for the camp are reasonable and the entire FOW budget is approved by the FOW membership, the general financial parameters for the camp will be in place. Much can happen between November and the following June affecting the budget projections, and the CPBC Coordinator and the FOW Treasurer and FOW Board will work together to accommodate any unexpected changes affecting the budget. The amount approved in the budget for staffing will allow the CPBC Coordinator to make specific decisions in April on whom to hire, what to pay them, and what the optimal staffing mix will be within the budget parameters for an effective and efficient summer camp experience.

## **APPENDIX**

### **1. Counselor Job Description**

#### **Barrens to Bay Summer Camp Counselor**

The Central Pine Barrens Commission and the US Fish and Wildlife Service at Wertheim Wildlife Refuge host a 6-week summer environmental education program. Participants enjoy a variety of activities including interactions with wildlife, conducting ecological studies, hiking on Refuge property, exploring a variety of habitats and playing nature games. With access to forests, meadows, marshes, river fronts, and grasslands, participants experience the wonders and diversity of nature in the Pine Barrens and on Long Island and gain a greater understanding of and respect for the natural world. The Seasonal Educator will work **approximately 30 per week (approx. 8:30am – 3:00pm but be available 8:00am -3:30pm)** with assigned age groups ranging from 6-12. Pay is upon experience.

#### ***Essential Functions***

- Ensure Barrens to Bay summer Program functions smoothly and professionally, and that all program participants have a safe, enjoyable experience. This includes the new COVID protocols.
- Foster care of and respect for the natural world and others through positive behavior and actions.
- Create, prepare and deliver 6 weeks of nature, science and conservation-based curriculum for assigned age group centered on daily themes.
- Create a meaningful experience for summer program participants while teaching an appreciation and respect for the natural environment.
- Responsible for the health and safety of all participants, as well as the cleaning and maintaining of assigned areas and Refuge property.
- Develop positive relationships with Pine Barrens Commission and Wertheim staff, volunteers, visitors, and parents, members of the community and youth participants.
- Perform all other duties deemed necessary by the Camp Director to further the mission of the Central Pine Barrens and the Fish and Wildlife Service.

#### ***Qualifications and Experience***

- Experience and background in environmental studies, education, natural science, environmental education, biology, outdoor recreation, or related field.

- Experience teaching in schools, nature camps, nature centers, science museums, zoos, or other programs emphasizing science or nature education. Experience in summer camps preferred.
- Skilled in creating a safe, warm and welcoming atmosphere to awaken children's curiosity for and enjoyment of nature.
- Demonstrated experience working with diverse groups of children, as well as success in the management of youth activities.
- Excellent customer service skills.
- Self-motivated, detailed-oriented with the ability to work both independently and as part of a team.
- Strong organizational skills, written and verbal communication skills, and computer literacy.
- Positive role model for participants and other staff members: flexible, independent, responsible and enthusiastic.
- **Must be able to commit** to the full six weeks, **Monday through Friday from 8:00 am to 3:00 pm**. Staff training to be held the week prior to the start of camp.
- Willingness to work outdoors in any weather as necessary, get dirty, have fun, and have a genuine interest in connecting children with nature.
- Knowledge of Long Island natural history, a plus.

Please send resume to:

Melissa Griffiths Parrott  
 Camp Director  
[Melissa.parrott@scwa.com](mailto:Melissa.parrott@scwa.com)  
 631-218-1177

## **2. Counselor in Training (CIT) Job Description**

### **Barrens to Bay Summer Counselor in Training (CIT)**

The Central Pine Barrens Commission and the U.S. Fish and Wildlife Service host a 6-week summer environmental education program at Wertheim Wildlife Refuge. Participants enjoy a variety of activities including interactions with wildlife, conducting ecological studies, hiking on Refuge property, exploring a variety of habitats and playing nature games. With access to woodlands, pinelands, meadows, marshes, and river fronts, participants experience the wonders and diversity of nature in the Pine Barrens and on Long Island and gain a greater understanding of and respect for the natural world. A CIT will work **approximately 30 per week (approx.)**

**8:30am – 2:30pm but be available until 3:00pm)** with assigned age groups ranging from 6-12.

This schedule can be flexible, but a commitment to at least one entire week is preferred. This is a volunteer position.

All CIT applicants should be interested in working with children and possess maturity, flexibility, a strong work ethic, and the ability to have fun.

Our CIT program teaches management and leadership skills and can provide basic training in such skills as first aid, group leadership, time management, and a variety of outdoor skills. This CIT programs can lead to leadership opportunities at school, in extracurricular activities and at future jobs.

The skills that CITs develop will help lead to employment as a counselor because all camps seeking staff tend to favor the former CITs, understanding they have formal training in camp and leadership skills.

## ***Essential Functions***

- Make the camp a fun place to be, helping to devise and plan games and activities.
- Supervise cleaning
- Help provide a safe and supportive atmosphere for campers
- Help campers resolve conflicts
- Work with the counselor and camp director to learn the basics of environmental education, programming, and supervision procedures and policies, etc.
- Work with staff to develop and co-lead workshops or games.
- Participate in informal and formal activities with campers.
- Assist with implementing activities and programs that coincide with the weekly theme and meet the needs and interests of the campers
- Assist in teaching activities
- Demonstrate sound problem-solving techniques
- Assist campers in emergency situations
- Work as a team player and set a good example for campers and staff in terms of cleanliness, punctuality, manners, appropriate language, appropriate attire, etc.
- Provide excellent customer service to other staff members, campers, parents, guardians, and other visitors to camp
- Accept other responsibilities as deemed necessary by the Camp Director
- Willingness to work outdoors in any weather as necessary, get dirty, have fun, and have a genuine interest in connecting children with nature.

Please send resume to:

Melissa Griffiths Parrott  
Camp Director  
[Melissa.parrott@scwa.com](mailto:Melissa.parrott@scwa.com)  
631-218-1177

### 3. **CIT Understandings**

#### Counselor in Training (CIT) Commitment

Thank you for donating your time to Barrens to Bay summer camp! It is because of volunteers like you that make this camp so successful. Our goal is to bring a safe, fun, family atmosphere to all campers that spend time with us (like many of you had!). To eliminate any issues or challenges during your time as CIT, below are some basic understandings. If you agree to all the below, please add the signatures of your adult and yourself and return it with your other filled out paperwork. If you cannot follow the below agreement, you may be asked to leave ☺.

Thank you!

- Hands off campers at all times
- No rough housing with campers
- If an issue of any kind arises with a camper, come to Ms. Melissa or Ms. Gianna immediately.
- There will be no inappropriate conversations around campers. Always keep the discussions respectful. The campers are much younger than you and look up to you.
- You are not a camper; you are a mentor and counselor. Always be in a position of mentorship and assistance. There is a camper/counselor line that we must always adhere to.
- No phones during camp. If you need to use your phone for emergency purposes, you can ask to leave the room.
- As always, you are there to help and support, not take away from the program. Please no side conversations while lessons are being conducted. THANK YOU.
- Look at this as a job, please be respectful to all, including other counselors 

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Counselor in Training (CIT)

Parent or

Guardian Thank you for all you do! I am excited to work with you.

#### **4. CIT Responsibility letter**

Dear Counselor in Training,

We are excited to have you volunteer at this *Barrens to Bay* summer camp. Thank you for donating your time to help make our camp the best it can be! Please read the following general information so you come prepared for a day of fun and responsibility. Also, please fill out and return via mail all the paperwork enclosed.

**Time:** This year, camp starts each day promptly at 9:00am and runs until 2:00pm. *Please plan on arriving at 8:30am - 8:45am to prepare for the start of camp and plan to stay until 2:30 pm to assist in clean up.*

#### ***What to Bring:***

Each day there will be outdoor activities (weather permitting). Plan to bring:

- A snack in an insulated lunch box/bag with an ice pack,
- A drink in a re-closable bottle,
- Water shoes (ex. aqua shoes) or sandals that strap on,
- Waterproof sunscreen, (This should be applied daily before coming to camp and bring additional sunscreen for reapplication throughout the day.),
- Insect repellent wipes for the green flies, mosquitoes and ticks that are sometimes present,
- A hat is also strongly recommended,
- A small backpack to carry items such as lunch, water bottle, sunscreen, masks, etc.

**Prohibited:** Although you are not a camper, the below applies to you. Especially phones. **You are not allowed to be on your phone at any time during the day.** It will be for emergencies and to contact your parents if necessary.

Please remember, you are a counselor. You will be expected to act as a mentor and leader. You will be given responsibilities and are expected to follow through with those responsibilities with a maturity beyond a camper. We appreciate your assistance and help!

- Counselors are not permitted to share any food due to possible food allergies. Please do NOT bring in any shared food (such as birthday party treats- sorry! ")
- Counselors are **NOT** allowed to bring personal items such as trading cards, **technology** or toys to camp.
- Appropriate behavior is expected. Disruptive behavior will NOT be tolerated. Campers are expected to behave or will be asked not to return for the remainder of camp.

## **Water Activities**

Wertheim National Wildlife Refuge is fortunate to be located along the Carmans River. Unfortunately, camp participants will **NOT** be allowed to swim or wade in the river because we are not a swimming program and don't have the appropriate permits. Only water quality activities and salt marsh investigations can be conducted near the water. As a counselor, you may be called upon to assist in water activities, such as seining. Wearing a flotation device is mandatory.

## **Ticks?**

We live on Long Island and with that comes amazing natural beauty, fun recreational opportunities, and ticks!

We need to be aware of our surroundings and the possibility that ticks could be near. We will be taking every precaution to protect our camp participants from ticks. We will walk on nature trails and in open areas. We will stay on the trails and avoid contact with brush. We will do 'tick checks' during our program and at the end of the day. It is recommended you also check for ticks when campers return home from camp. Ticks are in our environment and there is nothing we can do about this. However, the best way to avoid tick borne illness is prevention by avoiding tick bites. Please dress in light color clothing, which can be tucked into white socks, sneakers or hiking shoes. We may also apply a natural based insect repellent to clothing; anything stronger will need to be sent with the child.

Our goal is to help our campers have a safe and enjoyable summer experience. We appreciate your input at any time. If you have questions about the camp, please contact Melissa Parrott, Camp Director, Central Pine Barrens Commission at 631-218-1177 or [mparrott@pb.state.ny.us](mailto:mparrott@pb.state.ny.us)

Please remember your safety and well-being and that of our campers is of utmost importance to us!

Thank you, Ms.

Melissa

**Item 3b:**

**Klug referral and draft response**

DRAFT



June 15, 2022

Jacqueline Fenlon  
Principal Planner  
Town of Southampton Planning Board  
116 Hampton Road  
Southampton, NY 11968

**RE: Referral: Klug Barn Site Plan Application  
SCTM # 900-235-1-47.1  
Core Preservation Area of the Central Pine Barrens**

Dear Ms. Fenlon:

Yvette Aguiar  
*Member*

Steven Bellone  
*Member*

Edward P. Romaine  
*Member*

Jay H. Schneiderman  
*Member*

On May 19, 2022, the Central Pine Barrens Commission office received your referral for the referenced proposal. The project site is in the Core Preservation Area of the Central Pine Barrens.

The referral contained application materials including a Town of Southampton Site Plan/Special Exception Application and Building Elevations prepared by Brian V. Klug, P.E., dated March 28, 2022.

The 182-acre site is located southeast of County Route 51, north of Sunrise Highway (State Route 27) and west of Speonk-Riverhead Road and Suffolk Community College Eastern Campus. The current land use of the site is agricultural. In 1982, the development rights were sold by the owner, Orenstein Brothers, to the Town of Southampton.

The proposal is for the construction of a 720 square foot expansion of a 2,016 square foot agricultural storage barn for the purpose of storing agricultural equipment and a farm office within the agricultural structure. The existing building was constructed after 2018 when the Commission made a determination of "non-development" for the activity. The current activities are proposed in existing cleared areas that were in active agriculture prior to the Act.

624 Old Riverhead Road  
Westhampton Beach, NY  
11978

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

At the Commission meeting of June 15, 2022, the Commission acknowledged receipt of the referral and determined the activity does not require approval pursuant to New York State Environmental Conservation Law Article 57 Section 57-0107.13(v) and the Central Pine Barrens Comprehensive Land Use Plan, Section 5.2, which states, "the use of any land for the purpose of agriculture or horticulture" does not constitute development provided that it does not involve material alteration of native vegetation.

**DRAFT**

Therefore, no permit from the Commission is required. If any activity related to the proposal changes, please notify this office and forward the updated information for Commission review prior to implementation.

Prior to construction, it should be determined by the Town if the structure including its size and use is consistent with the Town's easement on the property.

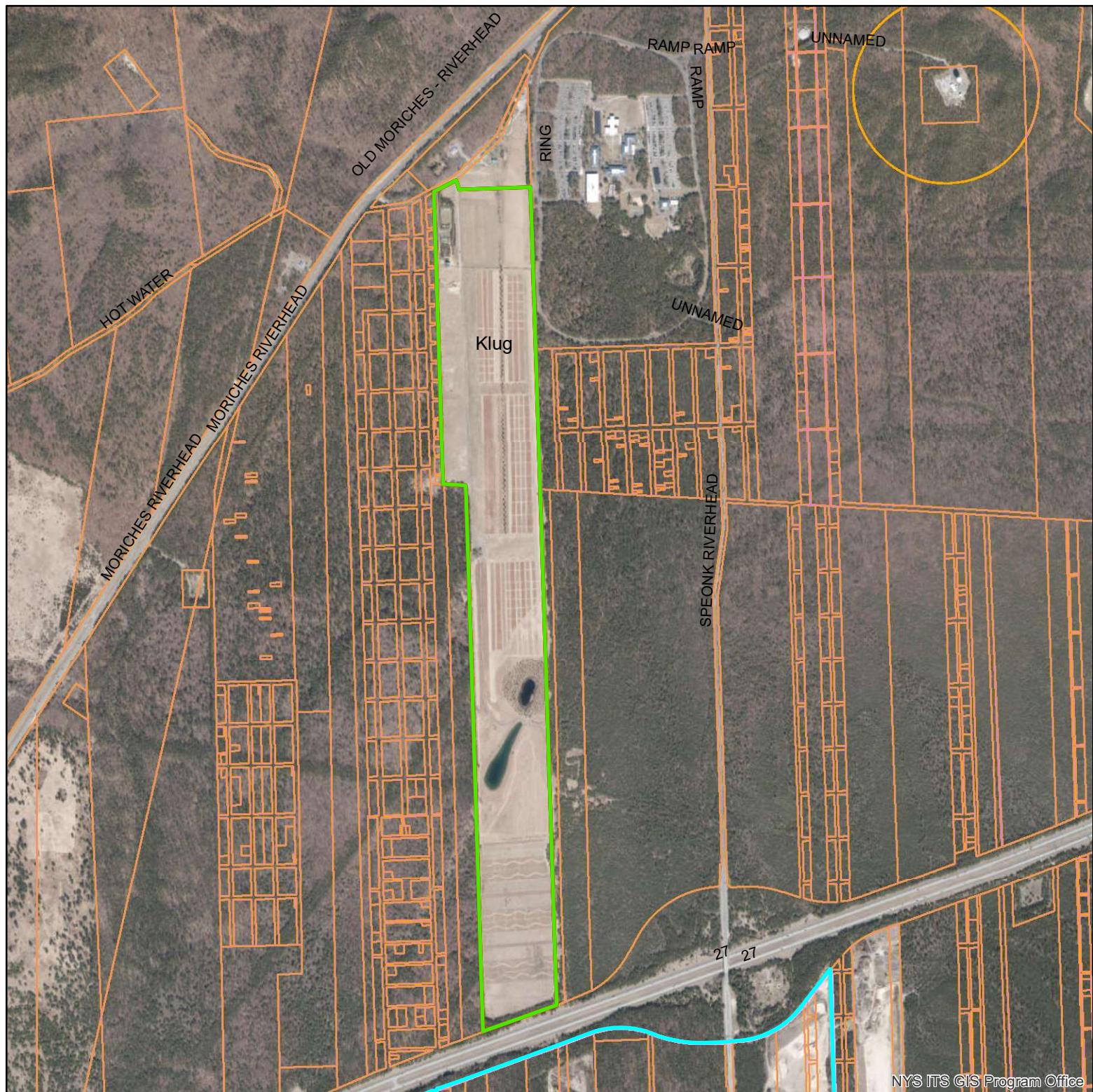
The project must conform to all other involved agency jurisdictions and permit requirements in effect on the project site. If you have any questions, please do not hesitate to contact me at (631) 218-1192.

Sincerely,

Julie Hargrave  
Policy and Planning Manager

cc:     Judith Jakobsen Executive Director  
          John C. Milazzo, Counsel to the Commission

Klug Farm  
Core Preservation Area  
Northampton, Town of Southampton  
SCTM # 900-235-1-47.1  
June 15, 2022



0 600 1,200 2,400 3,600 4,800  
Feet

2020 aerial



## Town of Southampton

116 Hampton Road  
Southampton, NY 11968

### PLANNING BOARD

631 287-5735 tel  
631 287-5706 fax

CHAIRPERSON  
JACQUI LOFARO

VICE CHAIRPERSON  
DENNIS FINNERTY

SECRETARY  
GLORIAN BERK

BOARD MEMBERS  
CRAIG CATALANOTTO THACKOOR (GEORGE) MOOTOO  
ROBIN LONG TOM NEELY

5/16/2022

Ms. Judy Jacobsen, Director  
**Central Pine Barrens Joint Planning and Policy Commission**  
624 Riverhead Road  
Westhampton Beach, NY 11978

RE: Klug Barn, Site Plan – Application

RECEIVED

MAY 19 2022

Central Pine Barrens Joint  
Planning & Policy Commission

Dear Ms. Jacobsen:

Please find enclosed the following with reference to the above application on the property located at 1 Old Moriches Riverhead Rd, Northampton, Town of Southampton, SCTM#(s) 900 - 235 - 1 - 47.1, which is presently being considered by the Planning Board. The application proposes a 720 square foot addition to the previously approved 2,016 square feet post and beam agricultural storage barn for the purpose of storing agricultural equipment and a farm office within the proposed agricultural structure.

**Material Enclosed:**

Application, Site Plan, Other

Please review and provide your comments and recommendations on proposed activity, so that the Planning Board may take them into consideration in their review of the subject application.

A public hearing is scheduled for 5/26/2022. Please notify the planner named below if you have special concerns regarding this project, or if you will not be able to submit a response in a timely manner.

In addition to mailing a hard copy, we respectfully request that you e-mail a copy of your response to the planner named below. This will be greatly appreciated.

Your prompt attention to this matter would be greatly appreciated.

Very Truly Yours,

Jacqueline Fenlon, Principal Planner  
[jfenlon@southamptontownny.gov](mailto:jfenlon@southamptontownny.gov) *fr* *JF*

DEPARTMENT OF LAND MANAGEMENT  
PLANNING BOARD  
116 Hampton Road  
Southampton, NY 11968

Phone: (631) 287-5735  
Fax: (631) 287-5706  
[www.southamptontownny.gov](http://www.southamptontownny.gov)

## TOWN OF SOUTHAMPTON



JAY SCHNEIDERMAN  
TOWN SUPERVISOR

CHAIR  
JACQUI LOFARO

VICE CHAIRPERSON  
DENNIS HINNERTY

SECRETARY  
GLORIA BURK

BOARD MEMBERS  
CRAIG CATALANOTTO  
THACKOOR (GEORGE) MOOTOO  
ROBIN LONG  
JOHN D. ZUCCARELLI

## SITE PLAN/SPECIAL EXCEPTION APPLICATION FORM

This application form is required as part of any request to process the action listed below. In addition, Chapter §330 of the Town of Southampton Code requires specific material to be submitted in conjunction with this form. Other required items are indicated on the attached application checklist. It is the applicant's responsibility to insure that application package is complete and accurate. Incomplete applications will not be processed.

1. All applications must be completed in full and comply with §330 of the Town Code. Incomplete application packages will not be accepted.
2. These instructions and the application form shall be read carefully and understood before completing. Any questions should be referred to the Planning Division, Ph: 631-287-5735.
3. As per §330-183 of the Zoning Law, a complete Site Plan application shall consist of the following: (check those appropriate)

NA  Application form and copies in appropriate numbers  
(a minimum of fifteen copies and additional copies if necessary)

FEB 09 2022

NA  Appropriate Site Plan review fee (See § 330-183B)
 

- Area to be improved is less than 500 sq.ft. \$1,200
- Area to be improved is greater than or equal to 500 sq.ft. and less than 10,000 sq.ft. \$2,200
- Area to be improved is greater than or equal to 10,000 sq.ft.: \$.25 per sq.ft. (not to exceed \$15,000)

Site Plans, in appropriate quantity (a minimum of fifteen copies and additional copies if necessary) complying with minimum submission requirements listed in §330-183-C. The site plan may include landscape/grading plans, lighting plans, drainage plans, architectural building elevations and floor plans

W  Appropriate Environmental Assessment Form (EAF, if necessary. Check Town Code §157 and with the Planning Department). *Type II Action*

4. A complete Special Exception application shall consist of the four items (a-d) mentioned in number 3 above, plus the following (check those appropriate, write NA where not applicable).
  - Legal petition, signed and notarized, explaining in detail how the proposed project will comply with Special Exception Standards.
  - Fee of \$1,200 (plus \$325 for special conditions and safeguards) (separate from review fee)

*A/E \$2571200*

5. A minimum of fifteen sets of applications and plans are required. Additional copies of the application (SP and/or SE) and site plan may be necessary, if the following conditions are met:

✓  2- Wetlands Permit required (See Chapter §325 of Southampton Town Code)

✓  1- Project fronts a County Road

✓  3 - Project fronts a State Road

✓  1 - Special Exception Permit

1 - Project located in Pine Barrens compatible growth area or core area

1 Total Copies

6. Application is hereby made to the Southampton Town Board for a Construction Permit for buildings and other structures customarily accessory and incidental to agricultural production as defined by Section 301 of the New York State Agricultural and Markets Law and in accordance with the provisions of the Zoning Law of the Town of Southampton Article X Agricultural Overlay District, Section § 330-50

Farmlands Preservation Program. Further, nine (9) copies of the following are submitted herewith (check those appropriate, write NA where not applicable).

✓  A copy of the approved subdivision map defining the grant easement (agricultural reserve) and the location of the proposed construction, if applicable.

A copy of the recorded grant easement (agricultural reserve) or development rights indenture

✓  A copy of the Planning Board resolution approving the subdivision plan and other covenants, if applicable.

A site plan, at a scale of no less than one (1) inch equals forty (40) feet, prepared by an architect, civil engineer, or surveyor, and consisting of the following information unless waived by the Farmland Permit Administrator.

Agricultural Construction Permit Application Fee \$1,200.00

7. A Fee Schedule is included in this package.

**PLEASE NOTE:** If the site was subject of a previous site plan approval then new site plans may be necessary for the Special Exception request, however, the required number of as built surveys and petitions are still required.

Application Name: Klug Barn Addition  
 SCTM No.: 473689 235,000 - 0001 - 047,001  
 Property Address: Old Moriches Riverhead Rd., Northampton, NY

#### I. General Information

a) Applicant's Name: Brian & Monica Klug

Address: P.O. Box 349, Speonk NY 11972

Phone No.: 631-369-3620

b) Name of Business (Existing or Proposed): N/A

Address: \_\_\_\_\_

c) If the applicant is a corporation, give the name and title of the responsible Officer:

Name: N/A

Title: \_\_\_\_\_

d) Landowner's Name: Brian V. Klug & Monica Klug

Address: P.O. Box 349, Speonk, NY 11972

e) Licensed Architect, Landscape Architect, Civil Engineer or Land Surveyor

Name: \_\_\_\_\_

License No: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

f) If the applicant does not own the property, prepare the Owner Endorsement Form at the end of this packet establishing authorization of the applicant's proposed subdivision of his land.

g) All communications with regard to this subdivision shall be addressed to the following person

until further notice:

Name: Brett Klug or Monica Klug

Address: P.O. Box 349, Speonk NY 11972

Phone No: 631-255-0817 or 631-369-3620

**II. Proposed Site**

a) General location of Property Southeast  
 of, CR 51, approx. 1 mile  
 (street or road)

(feet) (north/east/south/west)  
 of, Speonk Riverhead Rd, m. Northampton, NY  
 (nearest interesting street)

(hamlet)

b) Total area under consideration: approx. 7,927,920 sq. ft. or  
182 acres.

c) Zoning District(s): CR-200  
 Zoning Districts of adjoining Properties: CR-200

d) Zoning Overlay(s) (Please check all that apply)

- i.  Agricultural\*
- ii.  Aquifer Protection
- iii.  Tidal Flood Plain
- iv.  Tidal Wetland & Ocean Beach
- v.  Old Filed Map
- vi.  Archaeological\* (NYS Circles and Squares map)

\*Include a survey showing the location of Class I and II prime agricultural soils

e) Latest Deed(s) describing this parcel(s) is/are recorded in the Suffolk County Clerk's Office as Follows:

DATE:	LIBER:	PAGE:
May 31, 2000	12045	917
Aug 3, 1982	9221	134-140

f) Are there any encumbrances or liens against this land other than mortgages?  Yes  No

g) Description of Project:

In the space below, please provide a description of the project, the proposed use and operation thereof, including a detailed explanation of the design concept, the objective of the project sponsor and how the project is or is not in compliance with the Town Code.

Additional sheets may be added if necessary

An addition to conform with the existing Western Post and Beam Barn. The addition will be used to increase storage of agricultural supplies and a small office to work out of.

**III. Characteristics of Site and Surrounding Lands**

a. Current land use of site (agricultural, commercial, undeveloped)

Agricultural

b. Current conditions of site (building, brush, etc.)

Grassed Area

c. Character of surrounding lands (within 200 feet) (residential, commercial, agriculture, wetlands, etc)

Agriculture, preserved woodland, Suffolk County Community College Eastern Campus

IV. Nature of Use (i.e. retail, office, warehouse): Agricultural

IV. Nature of construction:

a. Anticipated construction time: one month

b. Will Development be staged? YES:  NO:

V. Impact:

a. Anticipated increase in number of residents, shoppers, employees, etc.

none

VI. Zoning:

a. Has an application been made to the Zoning Board of Appeals for this property? YES:  NO:

If yes, please list the name of application and date of determination.

Ambergreen Fields Ag Barn August 17, 2017  
Brian and Monica Klug

b. Is a Change of Zone requested at this time? YES:  NO:

## VII. Buildings:

a. Are all buildings and structures shown on the survey? YES:  NO:

b. Existing Building Area Coverage: Square Feet: 6,108 Percent Lot: .0007703

c. Proposed Building Area Coverage: Square Feet: 720 Percent Lot: .0000902

d. Height of Proposed Buildings: Feet: 12.5ft Stories: 1

e. Residential Buildings: Number of Dwelling Units by Size

900 square foot mobile home (Existing)

**f. Non-Residential Buildings: Total Floor area and Total Sales area**

(Existing) 5,208 square feet = 5 sheds on blocks and 2 open lean-to's,  
2 open wall pole buildings for hay storage and an ag barn.  
(proposed) 720 square foot addition to the ag barn

g. Is a cellar proposed? YES:  NO:

h. Proposed siding material: Wood

Roofing material: metal

Construction Type: post and beam

i. Are fire-walls proposed or necessary? YES:  NO:

i. Standard Industrial Classification Code Number:

01

(as identified in the Table of Use Regulations listed in the Town Code)

## **viii. Utilities**

The site will be served by the following utilities:

Fire District: Eastport Fire District

Water District or Company: N/A

Electric and/or Gas Company: PSEG LT

Post Office: Speonk, NY

School District: Remsenburg - Speonk

**IX. Signs**

a. Are there any existing free-standing or attached signs? ..... YES:  NO:   
 (all signs must be indicated on site plan.)

b. Have sign permits been obtained for all existing signs? ..... YES:  NO:  n/a

c. Are free-standing or attached signs proposed? ..... YES:  NO:

\*\*Plans indicating location, size, colors and materials of all proposed signs must be submitted with the site plan application. A Sign Permit from the Building Department must be obtained for all signs.

**X. Parking**

a. Number of off-street parking spaces required as calculated using the Schedule of Off-Street Parking Space Requirements for Non-Residential Uses, listed in Section 330-94 of the Town Code:  
n/a

b. Number of existing parking spaces: n/a

c. Number of handicap parking spaces provided (must be at least 5% of total parking spaces provided.): n/a

d. Number of truck loading spaces: n/a

e. Is a parking waiver requested? YES:  NO:  If yes, for how many spaces? n/a

Note: a formal letter requested waiver must be submitted separately along with this application

**XI. State Environmental Quality Review Act (SEQR)**

(Pursuant to Part 617, NYCRR and Chapter 157 of Town Code)

a. Do any tidal or freshwater wetlands occur on the subject site? ..... YES:  NO:

b. Are the wetlands and/or the proposed activity regulated by the following agencies?

New York State Department of Environmental Conservation: ..... YES:  NO:  DEC license

U.S. Army Corps of Engineers: ..... YES:  NO:  Hunting license

Southampton Town Conservation Board: ..... YES:  NO:

Southampton Town Trustees: ..... YES:  NO:

c. Has a permit been obtained from any of the above agencies? ..... YES:  NO:   
 If yes, which ones? DEC hunting preserve license & Fishing preserve license

d. Is the site located in a designated critical environmental area? ..... YES:  NO:   
 If yes, which ones? Aquifer Protection Overlay District and Central Pine Barrens Overlay District

e. Is the proposed action a Type I, Type II, or unlisted action? Type II

Note: Part I of an Environmental Assessment Long Form must be submitted for all Type I and Unlisted Actions

**\*PLEASE SUBMIT 15 COPIES OF APPLICATION AND PLANS. \***

**\*Note: A minimum of 15 copies is required. Additional copies may be necessary.**

I hereby depose and certify that all the above statements and information, and all statements and information contained in the supporting documents and drawings attached hereto and true and correct.

Monica Klug

Applicant's Name

Monica Klug

Applicant's Signature

Sworn before me this 28<sup>th</sup> day of JANUARY 2022

Kimberly Honig

Notary Public

KIMBERLY HONIG  
NOTARY PUBLIC, State of New York  
No. 01HO6153462  
Qualified in Suffolk County  
Commission Expires ~~October 27~~ Feb. 13, 2023



## Town of Southampton

### Board of Appeals

*This is Not a Building Permit*

DECISION NO. D017121

DECISION DATE: August 17, 2017

## VARIANCE IS HEREBY GRANTED

**OWNER:** Brian V Klug  
P.O. Box 349  
Speonk, NY 11972

**LOCATION:** Old Moriches Riverhead Rd, Northampton

### DETERMINATION:

This Board grants applicants relief from the provisions of Southampton Town Zoning Code Section 330-135(D) (housing for agricultural labor) for a proposed side yard setback to 73 feet where 200 feet is required to legalize an existing house trailer constructed without the benefit of a building permit. This Board additionally grants the applicants relief from the provisions of Southampton Town Zoning Code Section 330-11 (residential districts table of dimensional regulations) for a proposed accessory side yard setback to 30 feet where 50 feet is required for a proposed open wall pole building. The house trailer and open wall pole building will have the location as shown on the survey of L.K. McLean Associates, P.C. by Daniel Peter Jedlicka, Surveyor, dated June 15, 2017.

Pursuant to application, and survey and conditions as approved by the Board of Appeals.

NOTE: The holder of this variance is requested to familiarize himself with the ordinance under which said variance is granted. Any violation of the provisions of said ordinance shall render the offender liable for the penalties provided therein, and in addition thereto, may result in the immediate revocation of the building permit.

*This notice must be kept on the premises until full completion of the work authorized.*

PER

A handwritten signature in black ink, appearing to read "Adam B. Grossman".

Adam B. Grossman

ZONING BOARD OF APPEALS  
TOWN OF SOUTHAMPTON

In the Matter of the Application of

Brian Klug and Monica Klug

No # Old Moriches Road, Northampton  
SCTM # 0900-235.00-01.00-047.001

X

**FINDINGS AND DETERMINATION**

Based upon the application, all documents contained in the Board's file and the observations of this Board member following an on site inspection of the premises, the Zoning Board of Appeals finds and determines as follows:

1. Applicants request the following variances:

- a. §330-135(D): applicants request relief, housing for agricultural labor, for proposed side yard setback to 73 feet where 200 feet is required to legalize an existing house trailer constructed without the benefit of a building permit, and
- b. §330-11: applicants request relief, residential districts table of dimensional regulations for proposed accessory side yard setback to 30 feet where 50 feet is required for a proposed open wall pole building, and any other relief necessary.

2. The subject premises consists of a parcel containing approximately 7,929,453 square feet in the CR-200 zoning district located at No # Old Moriches Road, hamlet of Northampton, Town of Southampton. The premises are identified as Suffolk County Tax Map Number 0900-235.00-01.00-047.001. The subject property is currently a farm that is being cultivated primarily with native switch grass. The subject parcel is conforming as to size. This Board is additionally in receipt of a Referral Report from the Southampton Town Planning Board dated July 27, 2017, which indicates that "the majority of lots located directly to the west (of the subject property) are currently preserved by the County open space and therefore further residential development is not anticipated in the vicinity of the proposed agricultural housing. The property is surrounded by the Central Pine Barren Core Preservation Area therefore the Town Code and Central Pine Barrens Plans restricts further development in the "Core" unless a hardship permit is submitted".

3. This Board finds the subject application to be a Type II action under the State Environmental Quality Review Act ("SEQRA") and relevant provisions of the Town Code.

4. In order for this Board to grant applicants the requested relief, the applicants must

demonstrate, pursuant to §330-166(C) of the Town Code, that the proposed variance meets the standards set forth in that section, as well as the standards set forth in §267-b of the New York Town Law.

5. At the Public Hearing held herein, the following facts were established through testimony and evidence: Testimony at the Public Hearing by Monica Klug and Brett Klug, consisted of explanation that the applicants operate a farm on the subject property that primarily is used to grow native switch grass. Prior to the applicants purchasing this property, the existing house trailer, which has been used for agricultural labor housing, had been built, along with several other structures, all of which had been constructed without the benefit of building permits. The other structures have since been removed. The applicants now seek to legalize the house trailer where it is presently located, and request side yard setback relief for this structure. In addition, the applicants propose an open wall poll building, and seek side yards setback relief for this proposed structure. It should be noted that, while this lot is 7,929,453 square feet, or 182.035 acres, which is a huge parcel, because nearly the entire parcel contains farmland that is being cultivated, the applicants seek variance relief for the two structures to maximize the amount of land that can be farmed. In addition, the subject property is primarily adjacent to open space, thus the requested variance relief will have a negligible impact on adjacent property owners. The applicants submitted photos to establish their farming use of the subject property. There was no verbal nor written testimony presented in opposition to the relief requested by the applicants herein.

6. We find that in this instance the applicants established that they are entitled to the requested variance relief. While this board by no means condones the construction of structures without the applicants first obtaining all required approvals, in this instance, and in particular due to the fact that the setback relief is for a structure that was built by a prior owner, and because it will have a minimal impact on adjacent properties since the property is primarily adjacent to open space, we find that the impact of the existing as built house trailer being used for agricultural housing on adjacent property owners to be minimal. This Board finds that the benefit to the applicants of granting the application outweighs detriment to the health, safety and welfare of the neighborhood or the community. This Board further finds as follows: (1) that no undesirable change will be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variance due to the fact that the setback relief for house trailer being used for agricultural labor, as well as the proposed open wall pole building, will have a minimal impact on adjacent properties since the property is primarily adjacent to preserved open space; (2) that the benefit sought by the applicants cannot be achieved by some method, feasible for the applicants to pursue, other than an area variance, since the farming use of the subject property by the applicants requires the applicants to obtain variance relief for the as built house trailer and proposed open wall pole building; (3) the requested area variance is not substantial, considering that the relief requested is in the nature of setback relief for structures which are sufficiently set back from adjacent properties; (4) the proposed variance, based on the facts and circumstances surrounding this particular application, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district since the relief requested herein is within the character of the community; and (5) while the alleged difficulty was

self-created due to the fact that it is relief in part for an as built structure that was constructed without the benefit of building permits (the as built house trailer), this board is ever cognizant that this fact in and of itself does not necessitate denial of the requested variance relief.

Therefore, in the interests of justice and for the reasons set forth herein, this Board grants applicants relief from the provisions of Southampton Town Zoning Code 330-135(D), housing for agricultural labor, for proposed side yard setback to 73 feet where 200 feet is required to legalize an existing house trailer constructed without the benefit of a building permit. This Board additionally grants the applicants relief from the provisions of Southampton Town Zoning Code §330-11, residential districts table of dimensional regulations, for proposed accessory side yard setback to 30 feet where 50 feet is required for a proposed open wall pole building. The house trailer and open wall pole building will have the location as shown on the survey of L.K. McLean Associates, P.C., by Daniel Peter Jedlicka, Surveyor, dated June 15, 2017 which was submitted with the application and is incorporated herein. Grant of the foregoing relief is subject to such other conditions and/or permits as the applicants have heretofore acquired or may otherwise be necessary for final approval of the as built house trailer as it presently exists at the subject property, and for the open wall pole building to be built at the subject property.

Dated: August 17, 2017

Submitted by:



ADAM GROSSMAN



## Open Government Disclosure Form

(Zoning Board of Appeals, Planning Board, Conservation Board, all other Land Management Review)

STATE OF NEW YORK)

ss:

COUNTY OF SUFFOLK)

Monica Klug

, being duly sworn, deposes and says:

Print Name

I am the owner and/or applicant for a project that is the subject of a pending application before the Southampton (Check one)  Zoning Board of Appeals,  Planning Board,  Conservation Board  all other Land Management Review. I make this affidavit under penalty and swear to the truth herein. I am aware that this affidavit is required by General Municipal Law §809 and Southampton Town Code Chapter 23 and that I shall be guilty of a misdemeanor should I knowingly or intentionally fail to make all disclosures herein. I am also aware that I may be subject to the penalties in Southampton Town Code §23-14 should I knowingly or intentionally fail to make all disclosures herein.

1. The application name is: Klug Barn Addition

2. I reside at POBOX 349, Speonk NY 11972

3. The officers of the applicant corporation/owner corporation are as follows:

Pres. \_\_\_\_\_

Sec. \_\_\_\_\_

Vice Pres. \_\_\_\_\_

Treas. \_\_\_\_\_

4. Do any of the following individuals have an interest in the owner or applicant (as defined on page iii, note "A")?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

A. Any official of New York State

B. Any elected or appointed official or employee of Southampton Town or Suffolk County

If the answer to Question 4 is YES, General Municipal Law §809 and Town Code Chapter 23 require that you disclose the name and the nature and event of the interest of said individual(s) in the owner or applicant.

Name

not applicable

Residence

Nature of Interest

5. During the 24 months before the filing of this application, have any of the following individuals made campaign contributions exceeding \$500 in total, in cash or in kind, to the campaign for public office of any Town officer or employee, to any individual campaign committee, or to any political party committee designated to accept donations on such Town official's or employee's behalf as a candidate for public office?

1. Owner
2. Applicant
3. Agent for owner or applicant
4. Attorney
5. Other

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

If the answer to Question 5 is yes, Town Code Chapter 23 requires that the information be provided below:

Name/Address	Amount/Date	Name of Campaign Committee
not applicable		

6. During the preceding 24 months before the filing of this application, have any of the following individuals employed any Town officer or employee or a relative thereof involving compensation in an amount of \$500 or more? Said compensation may be directly made, or indirectly made through a corporation or business interest held by any Town officer or employee or their relative.

1. Owner
2. Applicant
3. Agent for owner or applicant
4. Attorney
5. Other

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

If the answer to Question 6 is yes, Town Code Chapter 23 requires that the information be provided below:

Name	Position (Owner, Agent, Attorney, Other)	Corporation
not applicable		

**READ AND CHECK BOX**

False statements made herein are punishable as a class "A" Misdemeanor pursuant to Section 210.45 of the New York State Penal Law.

A. For the purposes of this disclosure, an official of the State of New York or an elected or appointed official or employee of the Town of Southampton shall be deemed to have an interest in the owner and/or applicant when that official or employee, their spouse, brothers, sisters, parents, children, grandchildren or the spouse of any of them is:

- a. the owner or applicant; or
- b. an officer, director, partner, or employee of the applicant or owner; or
- c. Legally or beneficially owns or controls stock of a corporate applicant or owner, or is a member of a partnership or association applicant or owner; or
- d. Is a party to an agreement with the applicant or owner, express or implied, whereby said official or employee may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application. Ownership of less than five percent of the stock of a corporation whose stock is listed on the New York Stock or American Stock Exchange shall not constitute an interest for the purposes of this disclosure.

Submitted by (please print):

Monica Klug

Sign:

Monica Klug

Date:

1/28/2022

SWORN to before me this  
23<sup>rd</sup> Day of JANUARY 2022.  
Suffolk, NY  
Monica Klug

KIMBERLY HONIG  
NOTARY PUBLIC, State of New York  
No. 01H06153462  
Qualified in Suffolk County  
Commission Expires Feb 12 2022

## AGRICULTURAL DATA STATEMENT

Pursuant to §283-a of the New York State Town Law, any application for a special permit, site plan approval, use variance or subdivision approval requiring municipal review and approval by the Town Board, Planning Board or Zoning Board of Appeals that would occur on property within an agricultural district containing a farming operation or on properties within 500 feet of a farm operation located within an agricultural district, shall include an Agricultural Data Statement. The law also requires that the reviewing Board mail written notice of such an application to the owners of land within the agricultural district that contains a farm operation, which is located within 500 feet of the boundary of the project site. The cost of the mailing shall be borne by the applicant.

1. Project Name: Klug Barn Addition
2. Name of Applicant: Brian & Monica Klug
3. Address of Applicant: PO Box 349, Speonk, NY 11972
4. SCTM # of Project: 473689 235.001-0001-047.001
5. Project Location: Old Moriches Riverhead Rd. Northampton, NY 11901
6. Description of Project: An addition to conform with the existing Western Post and Beam Barn. The addition will be used to increase storage of agricultural supplies and a small office to work out of.
7. If the property that is the subject of the pending development application is located in an Agricultural District, you must compile and submit a list of tax parcels, with owners names and addresses, for all tax parcels containing a farm operation located within 500 feet of the property that is the subject of the pending development application.  
  
If the property that is the subject of the pending development application is located outside of an Agricultural District, you must compile and submit a list of tax parcels, with owners names and addresses, for all tax parcels containing a farm operation located within an Agricultural District and within 500 feet of the property that is the subject of the pending development application.
8. Submit a survey map showing the site of the proposed project relative to the location of farm operation parcels identified in item 6, above.
9. Submit legal size envelopes, pre-addressed to each of the parcel landowners identified in item 6, above with pre-paid certified mail postage, together with pre-addressed, green, return receipt cards

for each mailing. The return address on the return receipt card must read "SOUTHAMPTON TOWN PLANNING BOARD, 116 HAMPTON ROAD, SOUTHAMPTON, NY 11968"

If you do not believe that you are subject to this requirement, please complete the following and sign below:

I have reviewed the requirements for the submission of an Agricultural Data Statement and find that said statement is not applicable to this application for the following reasons:

There are no tax parcels containing a farm operation located within 500ft.

---

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Applicant's/ Applicant Agent's Signature

**SITE PLAN/SPECIAL EXCEPTION APPLICATION FORM CHECK LIST**  
**THIS FORM TO BE COMPLETED BY APPLICANT**

**Project Name:**

Klug Barn Addition

**SCTM No.:**

473689 235.000-0001-047.001

**Property Address  
or Location:**

Old Mashes Riverhead Rd., Northampton NY 11901

**Contact Person:**

\_\_\_\_\_

**Application submitted by:**

**Property Owner**

**Owner's Agent**

**Date:**

**SUBMISSION REQUIREMENTS  
IS ITEM INCLUDED?  
PLEASE CHECK YES OR NO**

**YES**

**NO**

**Fees:**

**Site Plan:**

1. The improved or altered area is 500 SF or less
2. The improved area of the project is greater than 500 SF but does not exceed 2 acres
3. The improved area of the project exceeds 2 acres

**Special Exception Fee**

**Fee Waiver Requested**

**Site Plan Application Form**

**Special Exception Legal Petition**

**Site Plan: Legal Data**

**Site plan @ 1" = 40' or greater**

**Key Map @ 1" = 200' or greater**

**Name and Address of Owner of Record**

**Name and Address of person/firm preparing map**

**Signed/Stamped**

**Date**

**North Arrow**

**Scale (Graphic or Written)**

**Property Description (error of closure not exceed 1 in 10,000)**

**Location, Names, Ownership of adjacent streets and curblines**

Adjoining lands and owners	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Public easements, setbacks, or dedicated area on site or adjoining land	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Outline of existing easements, deed restrictions or covenants on site	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Existing Zoning	<input type="checkbox"/>	<input type="checkbox"/>

#### Site Plan: Natural Features

Existing contours at max. 2' intervals, or spot elevations (Identify source of contour information)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Approximate boundaries of areas subject to flooding	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Identification of unique natural features (wetlands, steep slopes)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Identification of cultural features on site or adjacent	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Archeological, historic buildings, agricultural fields on or adjacent	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### Site Plan: Existing Structures and Utilities

Building footprints and uses not requiring buildings	<input checked="" type="checkbox"/>	<input type="checkbox"/>
All paved areas, parking areas, sidewalks, vehicular access to street	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Existing culverts (dimension and grades) flow direction and grades	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Underground/above ground utilities on site and adjacent		
Electrical Service	<input checked="" type="checkbox"/>	
Water Mains	<input checked="" type="checkbox"/>	
Sewer Mains	<input checked="" type="checkbox"/>	
All existing site structures (including fences)	<input type="checkbox"/>	
Location and use of all buildings and structures within 200'	<input checked="" type="checkbox"/>	
Nearest Fire Hydrant, cisterns, other fire protection	<input type="checkbox"/>	

#### Site Plan: Proposed Development

Location of building or structures (Indicate all setbacks and horizontal distances from existing structure)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Location and design of non-structural elements (parking, loading areas)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parking calculations		
Automobile	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Truck	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Outdoor lighting plan – location & lamp Design (Lightening power w/ foot-candles indicated on site plan, and time of use)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Grading and drainage plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Drainage calculations	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Proposed contours/spot elevations	<input type="checkbox"/>	
Sewage disposal treatment		<input checked="" type="checkbox"/>

Storage areas for materials, vehicles, equipment, supplies, products

Building Elevations including:

    Description of materials, colors

Sign Plans

    Proposed location

    Design

Landscape Plans

    Plant List

    Size and Quantity

Cablevision installations, location of water valves, water supply

Outdoor storage areas

    (located in side or rear yard and screened or fenced)

Phased development plans (when appropriate)

Compliance with ZBA Variance (if applicable)


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**Additional Materials:**

Certificate of Appropriateness (Landmarks & Historic District)

Wetland Permit Application (if applicable)

Sign Permit Application (if applicable)

Owners Endorsement

Disclosure Affidavit

Agriculture Data Statement


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**Additional Comments:**

For all information that is not provided state "No".

If the applicant believes these items are not applicable, indicate such and give reasoning.

Other comments about the submission may be provided here.

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Monica Klug  
Applicant's Name

Monica Klug  
Applicant's Signature





MAP OF PROPERTY OF  
BRIAN V. & MONICA KLUG

in

Town of Southampton

Lot Area: ± 7,929.454 Sq. Ft.

Existing Zoning: CR-200

Suffolk County Tax Map

0900 - 235.00 - 01.00 - 047.001

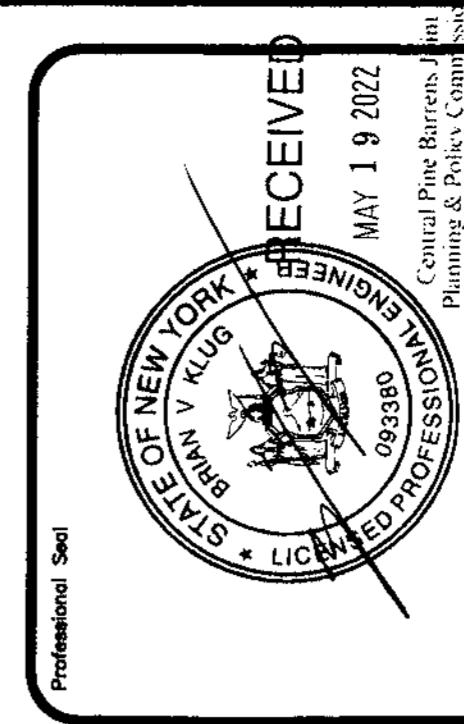
By	Revision	Date

**The Klug Farm**  
10 Old Moriches Riverhead Road  
Town of Southampton  
Suffolk County, New York

From Name and Address

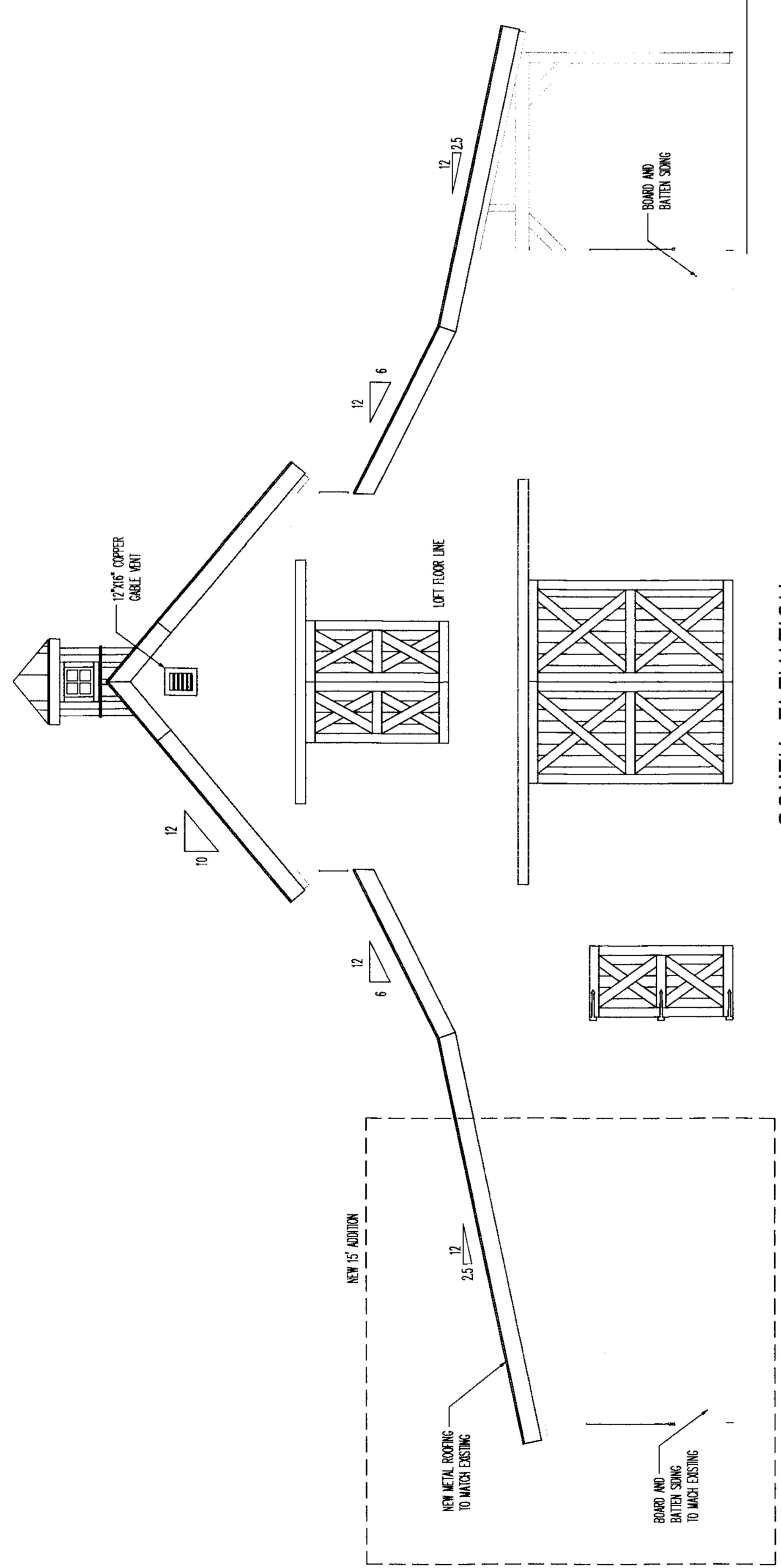
**Brian Klug, P.E.**  
P.O. Box 349  
Speonk, NY 11972  
brianyklug@yahoo.com

Project Name and Address

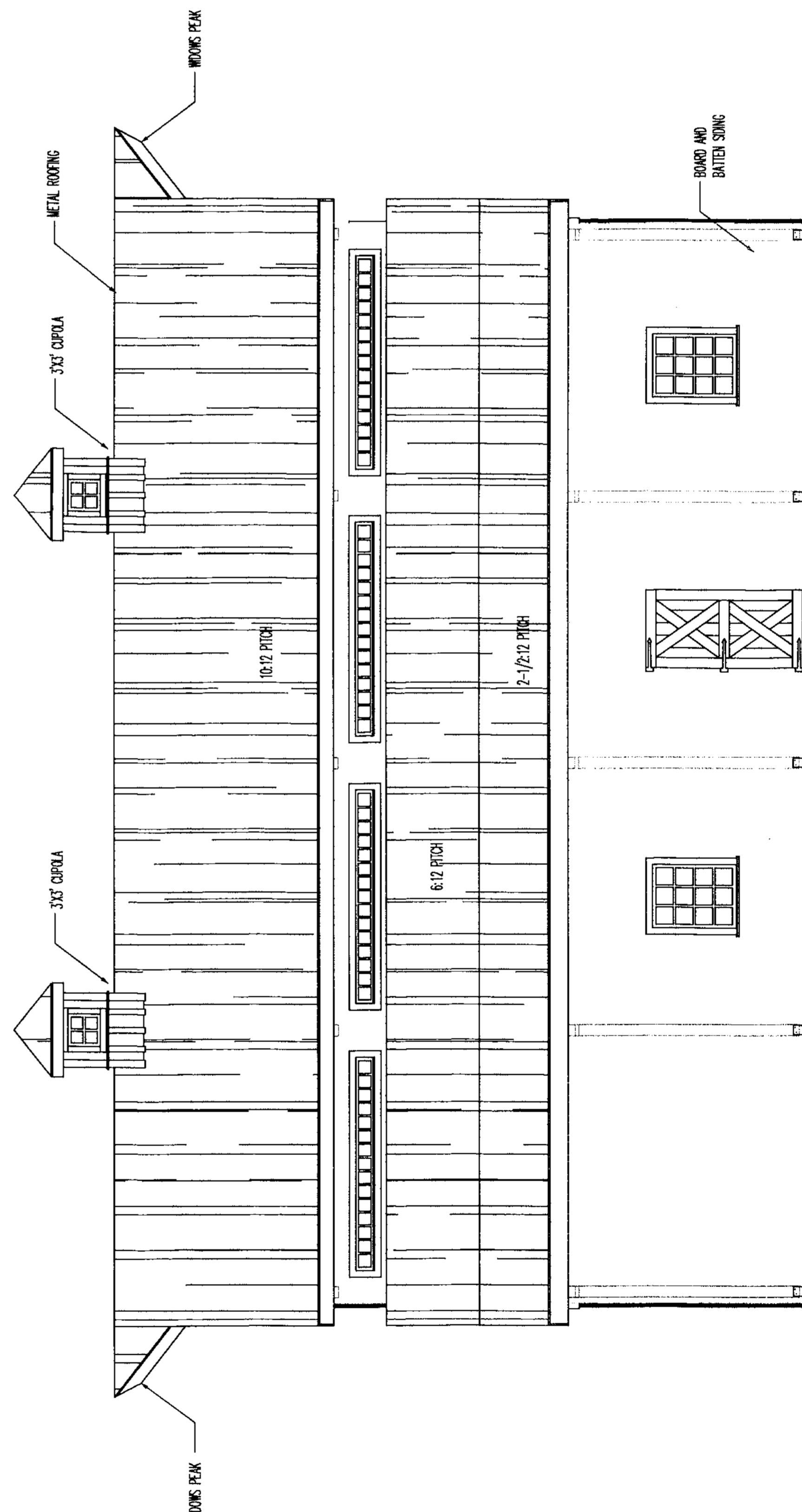


**Building  
Elevations**

Sheet	<b>2</b>	2
Submitted	Planning Dept.	
Date	March 28, 2022	
Scale	As Noted	

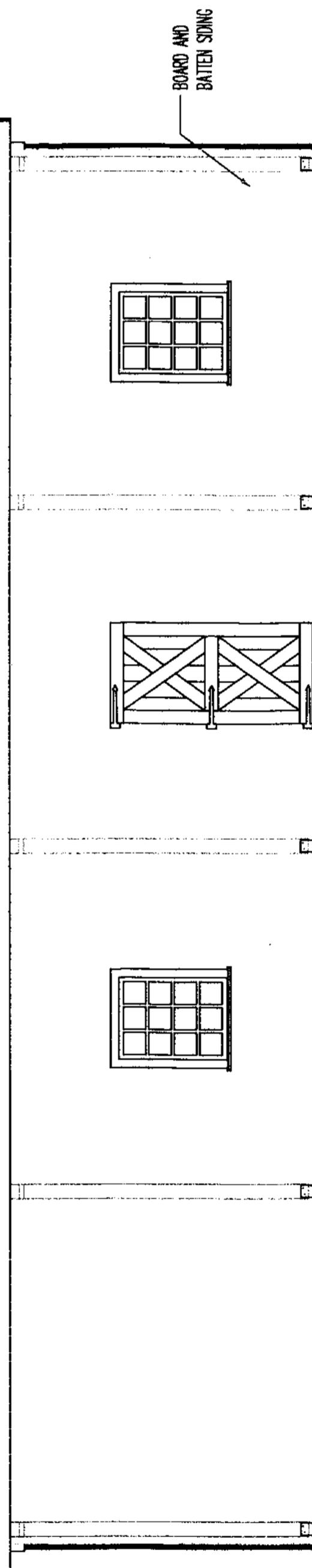


**SOUTH ELEVATION**  
E3  
SCALE:  $1/4'' = 1'$



THIS ELEVATION IS UNFFECTED BY ADDITION

**EAST ELEVATION**  
E4  
SCALE:  $1/4'' = 1'$



MAP OF PROPERTY OF  
BRIAN V. & MONICA KLUG

## Town of Southampton

Lat Am Stud 70001 S. E. E.

卷之三

**Existing Zoning: CR-200**

**Suffolk County Tax Map**

**0900 - 2335 00 - 01 00 - 047 001**

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## Existing Zoning: CR-200

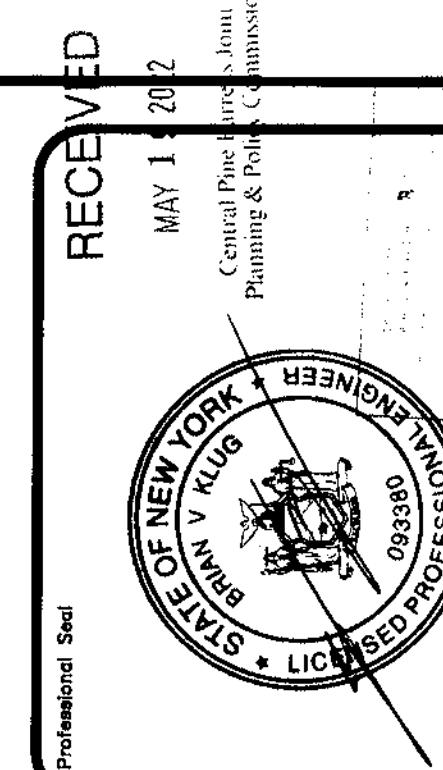
## Suffolk County Tax Map

900 - 235.00 = 01.00 - 047.001

# The Klug Farm

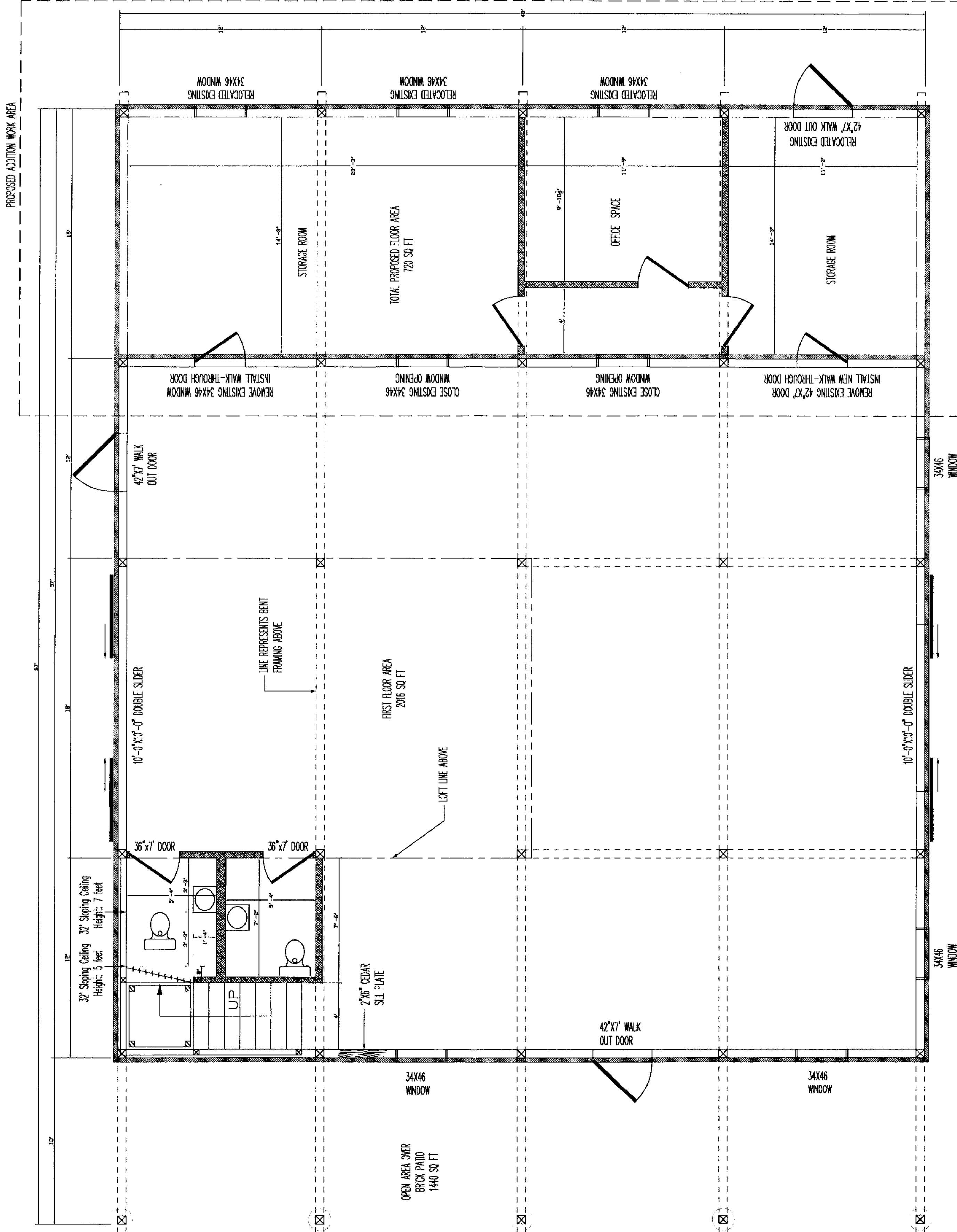
Old Moriches-Riverhead Road  
Town of Southampton  
Suffolk County, New York

**Brian Klug, P.E.**  
P.O. Box 349  
Speonk, NY 11972  
[brianyklug@yahoo.com](mailto:brianyklug@yahoo.com)



# First Floor Plan

Submitted	Building Dept.	Sheet	5	8
Date	April 7, 2022	Scale	As Noted	



# MAIN FLOOR LAYOUT

**Item 3c:**

**70 Schultz Road request and draft response**

**DRAFT**

*Via U.S. Mail and email: [merri@rdsi-ira.com](mailto:merri@rdsi-ira.com) and [scc2@nyu.edu](mailto:scc2@nyu.edu)*



June 15, 2022

Merrirose Reilly  
President  
Iannone Renaissance Associates, Inc.  
783 Smithtown Bypass  
Suite 103  
Smithtown, NY 11787

**RE: Determination of Jurisdiction  
70 Schultz Road, Manorville, Town of Riverhead  
SCTM # 600-148-2-2.3  
Core Preservation Area of the Central Pine Barrens**

Yvette Aguiar  
*Member*

Steven Bellone  
*Member*

Edward P. Romaine  
*Member*

Jay H. Schneiderman  
*Member*

Dear Ms. Reilly:

On May 31, 2022, the Central Pine Barrens Commission office received your request to construct an inground pool on the referenced property. The property is in the Core Preservation Area of the Central Pine Barrens.

The 5.2 acre property, purchased in February 2020, is located on the east side of Schultz Road, north of the Peconic River headwaters. It was developed with a single-family residence prior to the Long Island Pine Barrens Protection Act of 1993. The survey last dated January 3, 2020 prepared by Haynes Land Surveyors shows existing conditions on the property including the dwelling, accessory structures and fences.

The proposed activity constitutes “non-development” pursuant to New York State Environmental Conservation Law Article 57 pursuant to Environmental Conservation Law Article 57 Section 57-0107(13)(iv), which states:

*The use of any structure or land developed to dwelling uses for any purposes customarily incidental and otherwise lawful*

The removal of vegetation should be minimized to support the existing natural pine barrens vegetation and the preservation of the ecology, water resources and the character of the pine barrens region. No further review from this office is required. If any activity related to the proposal changes, please notify this office and forward the updated information for Commission review prior to implementation.

The proposal must conform to all other involved agency jurisdictions and permit requirements in effect on the project site. 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:        Judith Jakobsen, Executive Director  
              John C. Milazzo, Commission Counsel  
              Sang-Choon Cho, DDS, owner

624 Old Riverhead Road  
Westhampton Beach, NY  
11978

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

Sang-Choon Cho  
70 Schultz Road, Manorville, Town of Riverhead  
Core Preservation Area  
SCTM # 600-148-2-2.3  
June 15, 2022



0 100 200 300 400 500 600 700 800  
Feet

2020 aerial

RECEIVED

May 9, 2022

MAY 31 2022

Central Pine Barrens Joint  
Planning & Policy Commission

Pine Barrens Commission  
624 Old Riverhead Rd  
Westhampton Beach, NY 11978  
ATTN: Ms. Julie Hargrave, Policy and Planning Manager

RE: Sang-Choon Cho Residence (FKA Kimberly Sanzone Residence)  
70 Schultz Road  
Manorville, NY 11949

SCTM#: 148-2-2.3

Dear Ms. Hargrave,

I am writing to you to request a Letter of Non-jurisdiction on our Manorville property referenced above.

We purchased the property in February 2020, and when it was purchased, the lot was mostly cleared by previous owners, and had three stall barns built. We understood the property had been used previously as a horse farm and were under the impression that the barns and clearing were legal and acceptable. In 2022, we applied for a building permit to install an inground pool and discovered several things. First, we discovered the three stall barns have no CO's or paperwork in the Town of Riverhead's Building Department's files, next we discovered we are in a NYSDEC Scenic River Corridor for the Peconic River, and lastly, we discovered we are also located in a Core Preservation Area under your jurisdiction. The Town of Riverhead Building Department is requiring approval and compliance with all agencies listed in their letter to me, which I have included herewith along with a recent property survey.

After retaining an expeditor to do some archive research, we came upon correspondence from your Commission to the previous owner, Kimberly Sanzone, dated August 18, 2003. I have enclosed a copy of this correspondence for you. According to the letter from the Commission, it was determined that the use of the land for clearing and horse barns and stable was considered "customarily incidental and otherwise lawful" and was therefore not considered development; subsequently the Central Pine Barrens Commission determined they did not have jurisdiction.

Therefore, I am respectfully requesting a similar determination and letter from your Commission as well, since a swimming pool for private family use would certainly fall into what should be considered "customarily incidental and otherwise lawful" to a use as a dwelling. And since at one time the Commission considered horse barns and stalls to be congruent in the same way, we are anticipating you will continue to see them as such, as we move forward to "legalize" these additional structures with the Town of Riverhead. We are simultaneously addressing the other issues brought to light by the Building Department and are hopeful that a swift determination from your Commission will help move our project along quickly.

Please also include the expeditor, Merrirose Reilly, listed below my signature, on any correspondences as well. If you have any questions or require further information, you may contact her office as she is more knowledgeable about the process.

Thank you for your time and for your favorable consideration of the matter.

Sincerely,



Sang-Choon Cho, DDS

70 Schultz Rd

Manorville, NY 11949

Scc2@nyu.edu

PERMIT EXPEDITOR

Merrirose Reilly

Iannone Renaissance Associates, Inc

738 Smithtown Bypass, Suite 103

Smithtown, NY 11787

631-656-0944

merri@rdsi-ira.com

SCC/mr

Cc: Merrirose Reilly

Encl.



## Hargrave, Julie

---

**From:** Merri Reilly <merri@rdsi-ira.com>  
**Sent:** Tuesday, May 31, 2022 10:19 AM  
**To:** Hargrave, Julie  
**Subject:** 70 Schutz Rd Manorville Attachments  
**Attachments:** letters.pdf; survey.pdf

**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,

These are the attachments which should have accompanied that letter from the homeowner. Thanks for reaching out!

Please let me know if there is anything else you need from us at this time.

Sincerely,

**MERRIROSE REILLY**

*President*

**Iannone Renaissance Associates, Inc.**

738 Smithtown Bypass

Suite 103

Smithtown, NY 11787

631-656-0944

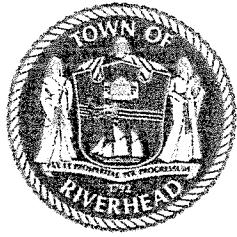
[merri@rdsi-ira.com](mailto:merri@rdsi-ira.com)

Hours:

M-Th: 8:30 – 4:00

F-Sat: by appointment

Evenings by appointment



**TOWN OF RIVERHEAD**  
**Building Department**  
201 Howell Avenue  
Riverhead, NY 11901  
(631) 727-3200

February 15, 2022

Sang Choon Cho  
70 Schultz Rd  
Manorville, NY 11949

RE: Application# 6824 for In Ground Pool  
70 Schultz Rd, Manorville  
SCTM # 600-148.-2-2.3

Dear Sir or Madam:

The Building Department is in receipt of your building permit application for the In Ground Pool: 20' X 40' Vinyl with Electric Heater

at the above referenced property. The following requirements must be addressed to further process a building permit:

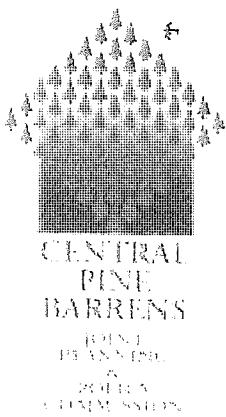
1. Your building permit application fee has been calculated at \$725.00. Please be advised the submitted check #37846 is stale dated. Kindly submit another.
2. Please be advised that the submitted survey shows structures that do not have permits. Please apply for permits.
3. Please be advised that your property is in the Pine Barrens Core Preservation area. Please provide approval from the Pine Barrens Commission for the pool and structures.
4. Please provide approval from the New York State DEC and WSRR for the proposed pool and the existing structures.

Please feel free to contact this office with any further questions.

Sincerely,

---

Andreas Sofoklis  
Inspector



August 18, 2003

Kimberly Sanzone  
70 Schultz Road  
Manorville, NY 11949

**RE: Tax Map Parcel # 600-148-2-2.3**

Dear Ms. Sanzone:

I am writing in response to your letter dated August 7, 2003 in which you requested a determination of jurisdiction regarding the above noted parcel. Although the subject property is within the Central Pine Barrens Core Preservation Area, the proposed work as stated in the letter and as illustrated in the accompanying sketch survey, does not require a permit from the Commission.

Robert J. Gaffney  
*Chair*

Patrick A. Heaney  
*Member*

Robert F. Kozakiewicz  
*Member*

John Jay LaValle  
*Member*

As stated in Environmental Conservation Law Article 57 Section 0107(13)(iv) "the use of any structure or land devoted to dwelling uses for any purposes customarily incidental and otherwise lawful" is not considered development, provided it conforms with all other applicable federal, state, or local statutes and rules and regulations. Therefore, the Central Pine Barrens Commission does not have jurisdiction, and the filing of a hardship exemption application is not necessary.

If you have any questions or require additional information, please contact me at (631) 563-0384.

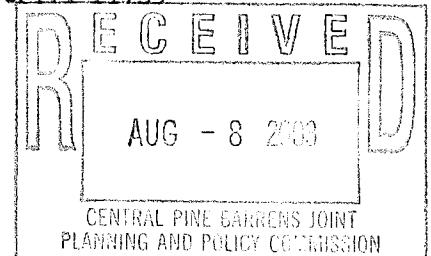
Sincerely,

Ken Born  
Environmental Analyst  
(631) 563-0384  
kborn@pb.state.ny.us

P.O. Box 587  
3525 Sunrise Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11719-0587

Phone (631) 224-2604  
Fax (631) 224-7653  
[www.pb.state.ny.us](http://www.pb.state.ny.us)

Pine Barrens Commission  
P.O. Box 587  
Great River NY 11739



Kimberley Sanzone  
70 Schultz Road  
Manorville NY 11949

Tax Map # 148.- 2 - 2.3

To whom it may concern:

At 70 Schultz Road in Manorville, Riverhead Town we would like to place a four-stall barn and an one-acre paddock for our horses at our residential property. In order for us to install the paddock area, which is a fenced in arena for the horses to occupy, we would need to expand an already cleared area by previous owners. When we bought this home and land in October 2002 we were informed that we were in a pine barren core area and that meant we could not subdivide the property and we needed to leave a 50 ft buffer zone to help preserve the native fauna and flora. Therefore, we understand the importance of keeping the property as natural as possible and we will not clearcut the paddock area. Also we will make sure that many old growth pines and oaks will be left untouched. As indicated by the copy of the survey we request to remove small sapling trees for example scrub oak, 4-5 ft. maples, 4-5 ft white oaks, sub canopy trees such as sassafras, and several old growth pines and oaks in an one-acre area. If you could respond with an answer to our request we would greatly appreciate it. Thank you for your time.

Sincerely,

*Kimberley Sanzone*  
Kimberley Sanzone  
Date August 7, 2003



**Item 3d:**  
**Homeland Towers request and draft response**

## DRAFT

*Via email and U.S. Mail to: [DWortman@VHB.com](mailto:DWortman@VHB.com)*



June 15, 2022

David M. Wortman  
Senior Environmental Manager  
VHB  
100 Motor Parkway, Suite 350  
Hauppauge, New York 11788

RE: Request for Determination of Jurisdiction  
2055 Flanders Road, Flanders, Town of Southampton  
SCTM #: 900-170-1-41.1  
Core Preservation Area of the Central Pine Barrens

Yvette Aguiar  
*Member*

Steven Bellone  
*Member*

Edward P. Romaine  
*Member*

Jay H. Schneiderman  
*Member*

Dear Mr. Wortman:

On May 31, 2022, the Central Pine Barrens Commission office received your letter for the referenced project. The project site is in the Core Preservation Area of the Central Pine Barrens.

### **Existing Conditions and the Proposed Project**

The 6.7 acre project site is located on the west side of Flanders Road (New York State Route 24) in Flanders, in the Town of Southampton. It is in the Town's Country Residence 60 (CR-60) Zoning District and in the Aquifer Protection Overlay District.

According to the Town GIS portal, the project site benefits from a Certificate of Occupancy dated February 13, 1986 for "one (1) mobile home used as an office and a one-story tin building accessory to all in conjunction with a junk yard."

The Site Plan drawings No. LE-2, 3 and 4 dated March 16, 2018 prepared by William F. Collins AIA identify a 5,000 square foot lease area by Verizon Wireless to develop a 150 foot tall monopole with a 3,000 square foot fenced equipment compound. The facility is approximately 50 feet from Flanders Road.

### **Central Pine Barrens status**

The proposed activity constitutes development pursuant to New York State Environmental Conservation Law (ECL) Article 57 Section 57-0107(13)(b) and (c), which state:

(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;

## DRAFT

Chapter 4, Section 4.5.1 of the Central Pine Barrens Comprehensive Land Use Plan (the Plan) states:

“The Act requires the prohibition or redirection of development in the Core Preservation Area and sets forth the jurisdiction of the Commission over, and certain requirements for processing, hardship exemptions. The Act authorizes the Commission, by majority vote, to waive strict compliance with this Plan upon finding that such waiver is necessary to alleviate hardship according to the conditions and finding of extraordinary hardship or compelling public need pursuant to subdivision 10 of Section 57-0121 of the Act.”

Please have the applicant proceed with the preparation and submission of a Core Preservation Area Hardship Waiver application to the Commission, subject to review and discretionary decision. Enclosed is a copy of the application for your use.

Please note, New York State Route 24 is identified as a scenic road in Volume 2 of the Comprehensive Land Use Plan. The environmental review and application should address potential visual impacts of the project on the scenic road and resources of the pine barrens.

### **State Environmental Quality Review Act**

- Pursuant to Chapter 4 Section 4.5.1.1 of the Plan, the Commission shall seek Lead Agency for development in the Core Preservation Area.
- It is recommended that the applicant review the Town of Southampton’s Wireless Master Plan and consider alternative sites and co-location opportunities for wireless infrastructure to avoid the proliferation of towers in the region, impacts on the pine barrens resources and other potential adverse environmental impacts.
- The project must also conform with the Town’s Site Plan/Special Exception provisions in the Zoning Code.

The project must conform to all other involved agency jurisdictions and permit requirements in effect on the project site. Thank you for your attention, and if you have any questions, please contact me at (631) 218-1192.

Sincerely,

Julie Hargrave  
Policy and Planning Manager

Encl.

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



May 31, 2022

Ref: 20967.00

Long Island Central Pine Barrens  
Joint Planning & Policy Commission  
Attn: Ms. Julie Hargrave, Policy and Planning Manager  
624 Old Riverhead Road  
Westhampton Beach, NY 11978

Re: Request for Jurisdictional Determination and Pre-Application Meeting  
Proposed Public Utility Wireless Telecommunications Facility  
2055 Flanders Road, Flanders  
Town of Southampton, Suffolk County

Dear Ms. Hargrave:

On behalf of Homeland Towers, LLC (hereinafter, "Homeland Towers"), VHB Engineering, Surveying, Landscape Architecture and Geology, P.C. (VHB) is submitting a request to the Central Pine Barrens Joint Planning and Policy Commission ("Commission") for a jurisdictional determination and pre-application meeting.

This request for a jurisdictional determination and pre-application meeting is submitted in connection with a proposed public utility wireless telecommunications facility (the "proposed project") to be constructed by Homeland Towers at 2055 Flanders Road in the hamlet of Flanders, Town of Southampton, Suffolk County, New York (the "subject property").

### **Request for Jurisdictional Determination**

The Applicant, Homeland Towers, respectfully requests a determination of the Commission's jurisdiction over the proposed project and the applicability of the Central Pine Barrens Comprehensive Land Use Plan. As part of this request, the Applicant respectfully requests a determination by the Commission as to whether the proposed project constitutes "development" as defined at Article 57 of the New York State Environmental Conservation Law, §57-0107.13, which definition excludes the following activities among others:

*(vi) work by a utility performed for the purpose of public health, safety, or welfare and consistent with the goals and objectives of this title.*

Relevant to the above, please be advised that the proposed facility will be designed to support the federally licensed wireless services of Verizon Wireless. Under the laws of the State of New York, Verizon Wireless is qualified as a public utility for zoning purposes. See *Cellular One v. Rosenberg*, 82 NY2d 362 (1993) (hereinafter referred to as "Rosenberg"), and *Cellular One v. Meyer*, 607 NYS 2d 81 (2<sup>nd</sup> Dept. 1994). In Rosenberg, the Court of Appeals, New York's highest court, held that federally licensed wireless carriers (such as Verizon Wireless) provide an essential public service and are public utilities in the State of New York.

**Engineers | Scientists | Planners | Designers**

100 Motor Parkway, Suite 350, Hauppauge, New York 11788

P 631.787.3400 F 631.813.2545 [www.vhb.com](http://www.vhb.com)

Ref: 20967.00  
Central Pine Barrens Commission  
c/o Julie Hargrave  
May 31, 2022  
Page 2



In support of this request, please find enclosed preliminary project plans (i.e., Lease Exhibits) depicting the location and extent of the proposed improvements.

### **Request for Pre-Application Meeting**

Homeland Towers requests the opportunity to meet with Commission staff to discuss the subject property and associated proposed for a proposed wireless telecommunications facility. Homeland Towers and their counsel, Robert Gaudioso, Esq., of Snyder & Snyder, LLP, would be pleased to come to Commission's office for a pre-application meeting. Alternately, the chance to meet over a virtual meeting platform would also be welcomed. Particularly in the instance that the proposed project is determined to be subject to the jurisdiction of the Commission, the Applicant and its counsel wish to have the opportunity to introduce the goals for the proposed project, and its details, and to discuss the procedures for the submission and processing of a hardship exemption application, including input on producing a complete application.

Thank you in advance for your consideration of the above requests. Should you have any comments or questions concerning these requests, please do not hesitate to contact the undersigned at your convenience.

Sincerely,

VHB Engineering, Surveying, Landscape Architecture and Geology, P.C.

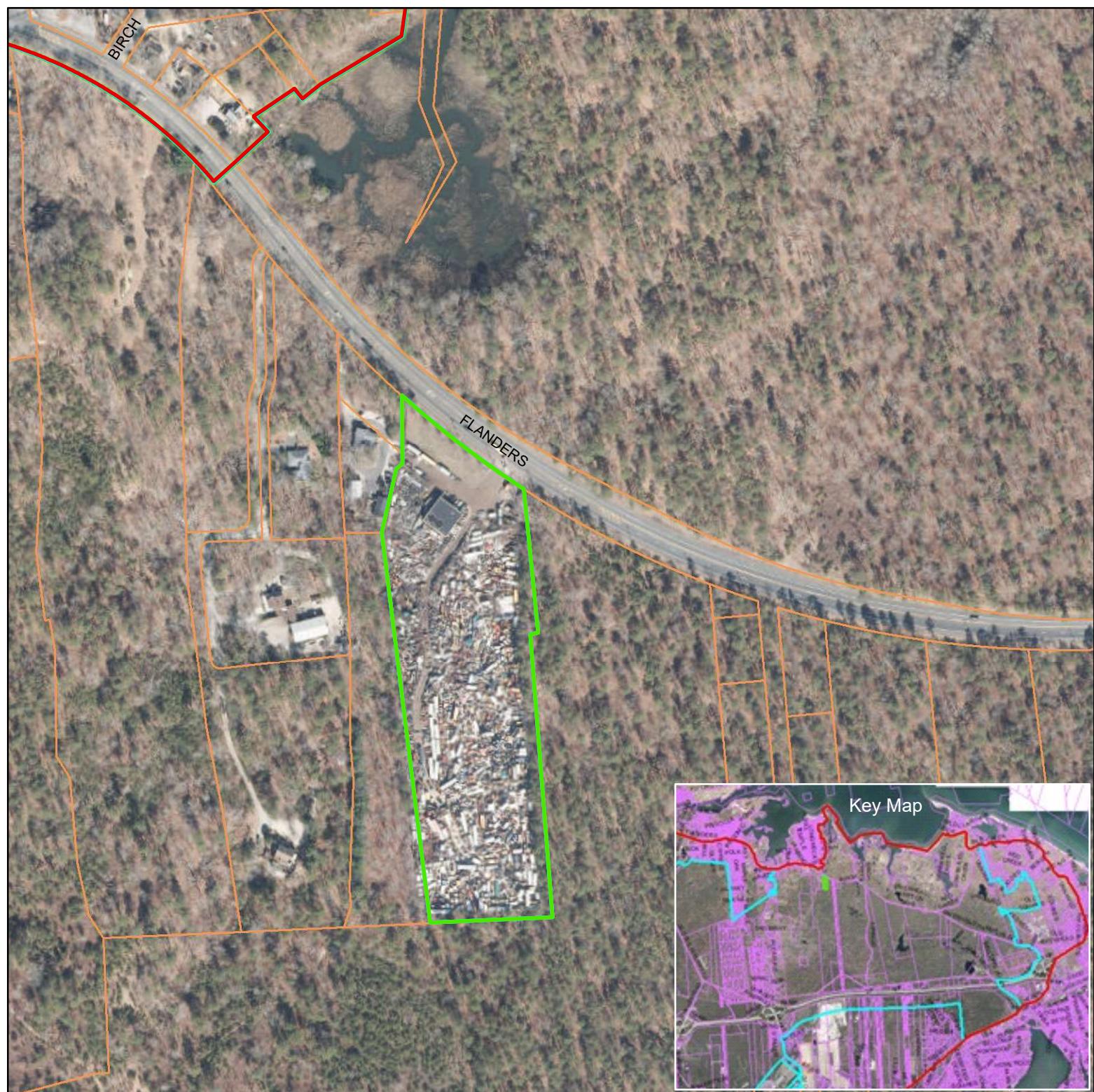
A handwritten signature in black ink, appearing to read "D M Wortman".

David M. Wortman  
Senior Environmental Manager  
[dwortman@vhb.com](mailto:dwortman@vhb.com)

DMW/  
enc.

cc: R. Gaudioso, Esq., Snyder & Snyder, LLP  
M. Vicente, Homeland Towers, LLC

Homeland Towers  
2055 Flanders Road, Flanders, Town of Southampton  
Core Preservation Area  
900-170-1-41.1  
June 15, 2022



A scale bar for distance in feet. It features a horizontal line with tick marks and numerical labels at 0, 100, 200, 400, 600, and 800. The word "Feet" is written at the end of the bar.

2020 aerial



22 SHELTER ROCK LANE, DANBURY CT 06810

# APPROVAL REVIEW FORM

PAUL SAENZ

PROJECT MANAGER (HOMELAND TOWERS)

N/A

PROJECT MANAGER (VERIZON WIRELESS)

N/A

PROJECT MANAGER (T-MOBILE)

HOMELAND TOWERS

REAL ESTATE MANAGER

COORDINATES:

LATITUDE: N 40° 53' 59.4" (NAD 83)  
LONGITUDE: W 72° 36' 04.46" (NAD 83)

GROUND ELEVATION:

31' +/- AMSL (NAVD 88)

MULTIPLE CARRIER SITE:

YES

ZONING JURISDICTION:

TOWN OF SOUTHAMPTON

DISTRICT:

2

SECTION:

-

BLOCK:

-

LOT(S):

--

ZONING CLASSIFICATION:

- (-)



WILLIAM F. COLLINS, AIA  
A R C H I T E C T S, L L P  
12-I TECHNOLOGY DRIVE SETAUKEET, NY 11733  
VOICE: 631-689-8450 DATA: 631-689-8459

WFC PROJECT NO:  
17-12320  
DRAWN BY:  
KT  
CHECKED BY:  
GD  
SCALE:  
AS NOTED



DRAWING TITLE:

APPROVAL REVIEW FORM

PROJECT TITLE:

HAMPTON BAYS 4

PROJECT ADDRESS:  
2055 FLANDERS ROAD  
FLANDERS, NY 11901

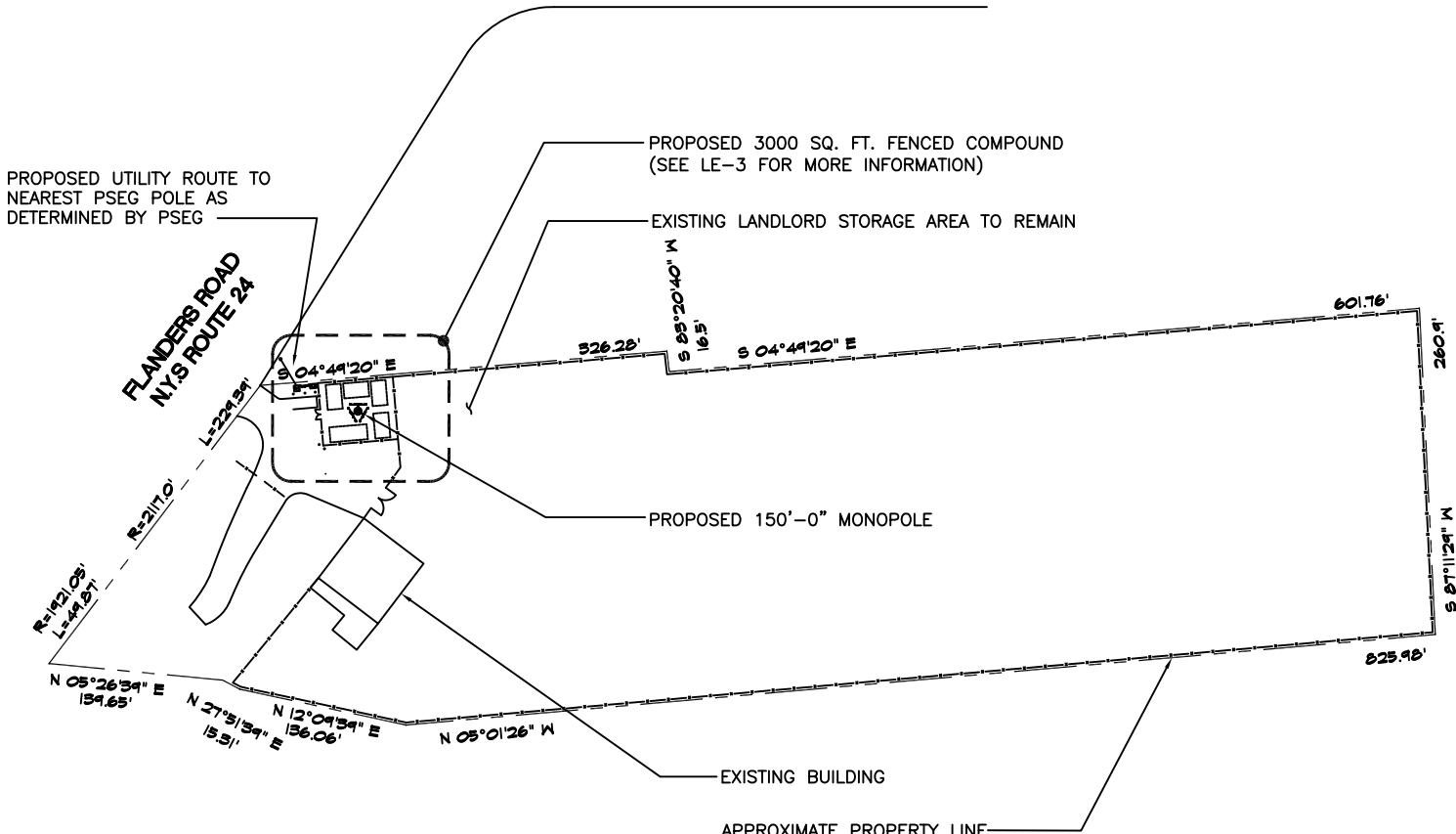
3	3/16/18	
2	2/7/18	
1	1/24/18	
REV. DATE		REV. DATE
SITE ID #		
NY065		
DRAWING NO:		REV. #
LE-1		3

NOTE:  
PROPOSED ELEC/TELCO ROUTED TO NEAREST  
VIALE SOURCE AS DETERMINED BY PSEG.

NOTE:  
DRAWING IS FOR ILLUSTRATIVE PURPOSES  
ONLY. EXISTING SITE APPURTENANCES SHOWN  
ARE BASED UPON FIELD OBSERVATIONS AND  
ARE SUBJECT TO ADJUSTMENT. ALL  
INFORMATION IS SUBJECT TO VERIFICATION  
AND PROPERTY SURVEY

1  
LE-4

## SPINNEY ROAD



## SITE PLAN

SCALE: 1"=150'-0"

## NOTES:

1. LEASE EXHIBITS SUBMITTED ARE A CONCEPTUAL DESIGN OF THE LEASE AGREEMENT ONLY. ACTUAL ARCHITECTURAL/ENGINEERING CONSTRUCTION DOCUMENTS MAY VARY TO COMPLY WITH ALL BUILDING CODES AND ANY UNFORESEEN CONDITIONS.
2. THE INFORMATION SHOWN IS TAKEN FROM A TAPE SURVEY PERFORMED BY WILLIAM F. COLLINS, AIA ARCHITECTS, LLP DURING THE SITE VISIT.
3. LOCATION SHOWN IS APPROXIMATE. FINAL LOCATION SHALL BE DETERMINED IN THE DESIGN PHASE.
4. 24/7 ACCESS IS REQUIRED FOR SERVICE TECHNICIAN.
5. ELECTRIC AND TELEPHONE SERVICES SHALL BE CONFIRMED PRIOR TO CONSTRUCTION DOCUMENT PHASE.



WILLIAM F. COLLINS, AIA  
A R C H I T E C T S , L L P  
12-1 TECHNOLOGY DRIVE SETAUKEET, NY 11733  
VOICE: 631-689-8450 DATA: 631-689-8459

WFC PROJECT NO:
17-12320
DRAWN BY:
KT
CHECKED BY:
GD
SCALE:
AS NOTED

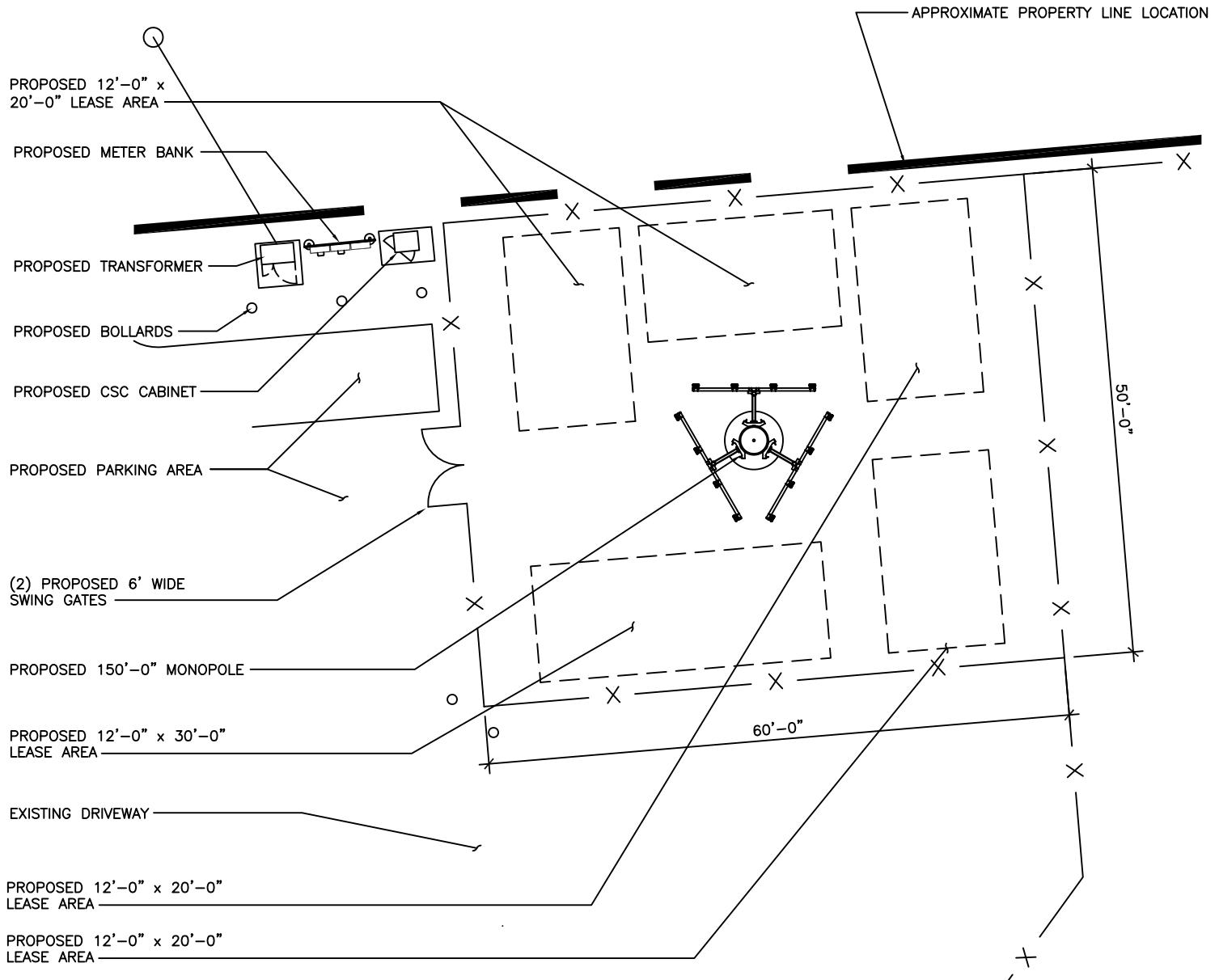


DRAWING TITLE: SITE PLAN

PROJECT TITLE: EDUCATIONAL GAMES

PROJECT ADDRESS:  
2055 FLANDERS ROAD  
FLANDERS, NY 11901

3	3/16/18		
2	2/7/18		
1	1/24/18		
REV.	DATE	REV.	DATE
SITE ID # <b>NY065</b>			
DRAWING NO:		REV. #	
<b>LE-2</b>		<b>3</b>	



NOTE:  
PROPOSED LEASE AREA APPROXIMATELY 5,000 SQ. FT.

NOTE:  
LOCATION BASED SYSTEM (E-911 EQUIPMENT)  
TO BE INSTALLED - NOT DEPICTED.

NOTE:  
PROPOSED ELEC/TELCO ROUTED TO NEAREST  
VIABLE SOURCE AS DETERMINED BY LIPA.

## ELARGED COMPOUND PLAN

SCALE: 1/16"=1'-0"

## NOTES:

1. LEASE EXHIBITS SUBMITTED ARE A CONCEPTUAL DESIGN OF THE LEASE AGREEMENT ONLY. ACTUAL ARCHITECTURAL/ENGINEERING CONSTRUCTION DOCUMENTS MAY VARY TO COMPLY WITH ALL BUILDING CODES AND ANY UNFORESEEN CONDITIONS.
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WILLIAM F. COLLINS, AIA  
A R C H I T E C T S , L L P  
12-1 TECHNOLOGY DRIVE SETAUKEET, NY 11733  
VOICE : 631-689-8450 DATA : 631-689-8459

WFC PROJECT NO:
<b>17-12320</b>
DRAWN BY:
<b>KT</b>
CHECKED BY:
<b>GD</b>
SCALE:
<b>AS NOTED</b>

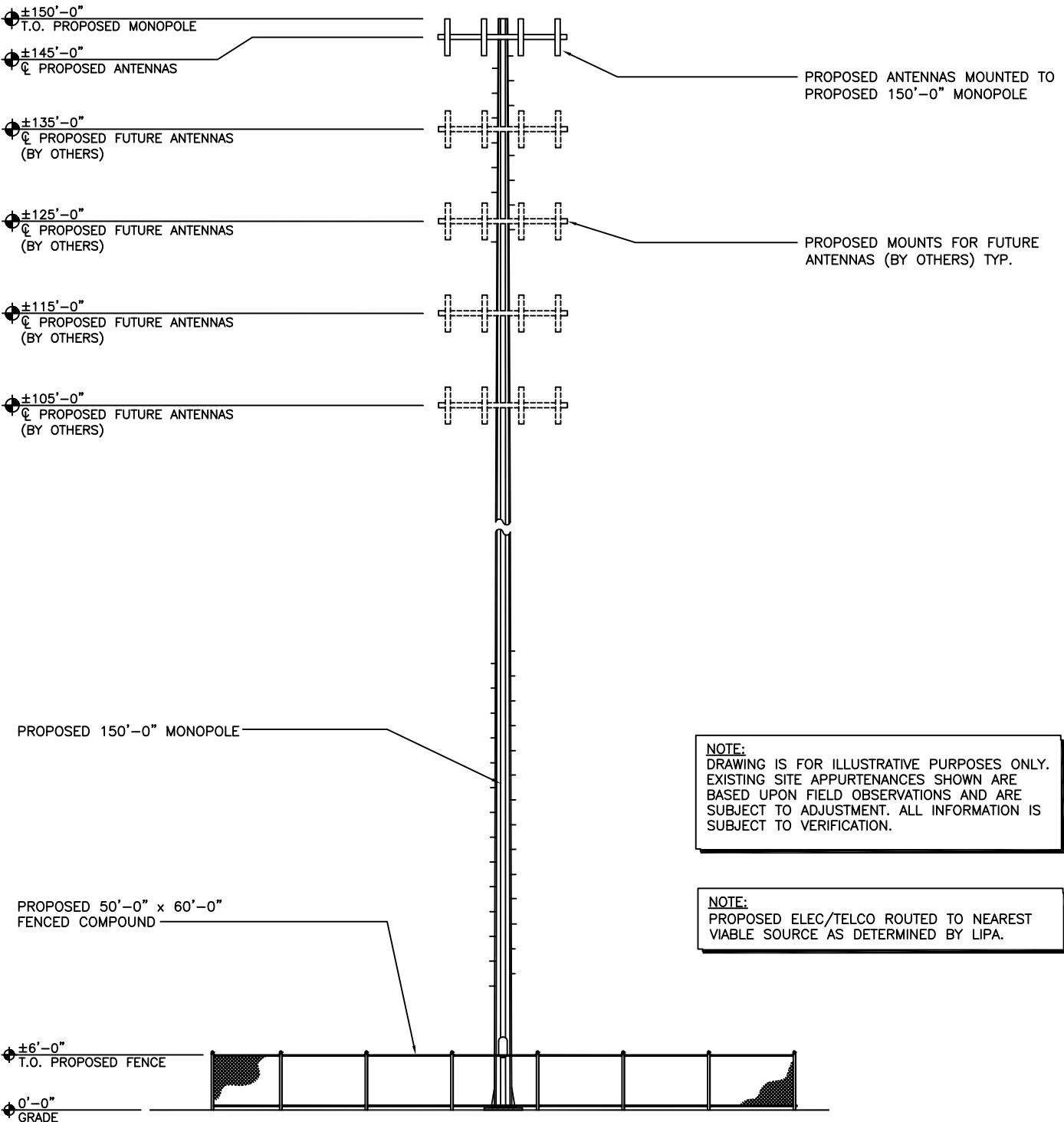


DRAWING TITLE:  
**ENLARGED COMPOUND  
PLAN**

PROJECT TITLE:  
**HAMPTON BAYS 4**

PROJECT ADDRESS:  
2055 FLANDERS ROAD  
FLANDERS, NY 11901

3	3/16/18		
2	2/7/18		
1	1/24/18		
REV.	DATE	REV.	DATE
SITE ID # <b>NY065</b>			
DRAWING NO:		REV. #	
<b>LE-3</b>		<b>3</b>	



## EAST ELEVATION

SCALE: 1/16"=1'-0"

NOTES:

1. LEASE EXHIBITS SUBMITTED ARE A CONCEPTUAL DESIGN OF THE LEASE AGREEMENT ONLY. ACTUAL ARCHITECTURAL/ENGINEERING CONSTRUCTION DOCUMENTS MAY VARY TO COMPLY WITH ALL BUILDING CODES AND ANY UNFORESEEN CONDITIONS.
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5. ELECTRIC AND TELEPHONE SERVICES SHALL BE CONFIRMED PRIOR TO CONSTRUCTION DOCUMENT PHASE.



WILLIAM F. COLLINS, AIA  
A R C H I T E C T S , L L P  
12-1 TECHNOLOGY DRIVE SETAUKEET, NY 11733  
VOICE: 631-689-8450 DATA: 631-689-8459

WFC PROJECT NO:  
17-12320  
DRAWN BY:  
KT  
CHECKED BY:  
GD  
SCALE:  
AS NOTED



DRAWING TITLE:  
**EAST ELEVATION**

PROJECT TITLE:  
**HAMPTON BAYS 4**  
PROJECT ADDRESS:  
2055 FLANDERS ROAD  
FLANDERS, NY 11901

3	3/16/18	
2	2/7/18	
1	1/24/18	
REV. DATE	REV. DATE	
SITE ID #		
NY065		
DRAWING NO:	REV. #	
LE-4	3	

**Item 3e:**  
**PSEG-LI request for determination materials**

## Hargrave, Julie

---

**From:** Lacorte, Justin <Justin.Lacorte@pseg.com>  
**Sent:** Thursday, May 26, 2022 3:06 PM  
**To:** Hargrave, Julie  
**Cc:** Pomi-urbat, Lara; Gruza, Sy; Gorman, Erin  
**Subject:** PSEG LI William Floyd New Underground Feeder Project  
**Attachments:** PSEG LI - William Floyd Feeder - PBC Transmittal\_2022-5-26.pdf; William Floyd - Pine Barrens Location Map.pdf

**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.

Good Afternoon Julie,

PSEG LI is planning to carry out a project to install approximately 9,300 linear feet of underground (UG) distribution cable via Horizontal Directional Drilling (HDD) and the in place abandonment of an approximately 3,000 linear foot existing underground feeder. The Proposed Action also includes the installation of six (6) manholes, six (6) switchgears (PMH), and three (3) pad-mounted transformers along the Proposed Action route. A portion of the project is located within the Pine Barrens Compatible Growth Area.

Please see the attached letter and map outlining the proposed work and proposed disturbance areas. PSEG Long Island would like to coordinate with the Commission early in the planning process, and confirm that the proposed activities are not considered "development" and do not require a Hardship Waiver Application.

Please get back to me when you have the chance.

Thanks,  
Justin

**Justin LaCorte**  
Environmental Science and Planning Analyst, Licensing and Permitting  
 PSEG LONG ISLAND  
Project Management Office  
PSEG Long Island | 999 Stewart Ave | Bethpage, NY 11714  
(516) 712-7805  
[Justin.Lacorte@pseg.com](mailto:Justin.Lacorte@pseg.com)

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May 26, 2022

Ms. Julie Hargrave  
Principal Environmental Planner  
Central Pine Barrens Joint Planning and Policy Commission  
624 Old Riverhead Road  
West Hampton Beach, New York 11978

**Re: PSEG Long Island William Floyd Substation New Feeder, Yaphank, New York  
Request for Confirmation of Non-Development**

Dear Ms. Hargrave,

PSEG Long Island, as agent for Long Island Lighting Company d/b/a LIPA, a wholly owned subsidiary of Long Island Power Authority, is requesting confirmation that work proposed within the Compatible Growth Area (CGA) of the Pine Barrens does not constitute "development" as per NYS ECL Article §57-0107(13)(i) or (vi). The project includes the installation of approximately 9,300 linear feet of underground (UG) distribution cable via Horizontal Directional Drilling (HDD) and the in place abandonment of an approximately 3,000 linear foot existing underground feeder. The Proposed Action also includes the installation of six (6) manholes, six (6) switchgears (PMH), and three (3) pad-mounted transformers along the Proposed Action route. Easements will be required for the installation of three (3) switchgears and all three (3) of the pad-mounted transformers. This work will occur in the hamlet of Yaphank, Town of Brookhaven, Suffolk County, New York. As detailed below, PSEG Long Island seeks from the Pine Barrens Commission a determination that the proposed work does not constitute "development" for purposes of the Long Island Pine Barrens Maritime Reserve Act.

The underground feeder will start at the LIPA owned William Floyd Substation, exit the substation to the north towards Rose Executive Boulevard, and continue east past William Floyd Parkway until Luitpold Drive. The feeder will continue east along Luitpold Drive until Natcon Drive and continue east along Natcon Drive until Ramsey Road where the feeder will split. One route will continue south on Ramsey Road until it terminates. The other route will continue east along Natcon Drive and then south where it will terminate on a newly developed plot.

The vast majority of the project is located within the Pine Barrens CGA. All work to be conducted within the CGA will occur within paved roadway right-of-ways, concrete sidewalks, or vegetated areas directly adjacent to the existing roadway and maintained roadside. Minimal vegetation removal and/or trimming may be required for the installation of transformers and switchgears, installation of underground cable and associated appurtenances. Any disturbed areas will be reseeded with appropriate native vegetation, consistent with native Pine Barrens vegetation.

Enclosed for your reference please find a project location map (see Figure 1) and preliminary design drawings.

**PSEG Long Island**

175 E. Old Country Road  
Hicksville, NY 11801



Based on a review of ECL 57-0107 (13), PSEG Long Island believes the project would be classified as one or more of the following, and therefore, would not constitute development:

- (i) *Public improvements undertaken for the health, safety, or welfare of the public. Such public improvements shall be consistent with the goals and objectives of this article, and shall include, but not be limited to, maintenance of an existing road or railroad track;*
- (vi) *Work by a utility performed for the purpose of public health, safety, or welfare and consistent with the goals and objectives of this article.*

PSEG Long Island is requesting a determination on the classification for this project and requesting this project be presented at the upcoming Central Pine Barrens Commission meeting scheduled for June 15, 2022.

Should you have any questions or require additional information, please do not hesitate to contact the undersigned at (631) 712-7805 or via email at [Justin.LaCorte@pseg.com](mailto:Justin.LaCorte@pseg.com)

Regards,

A handwritten signature in blue ink that reads "Justin LaCorte".

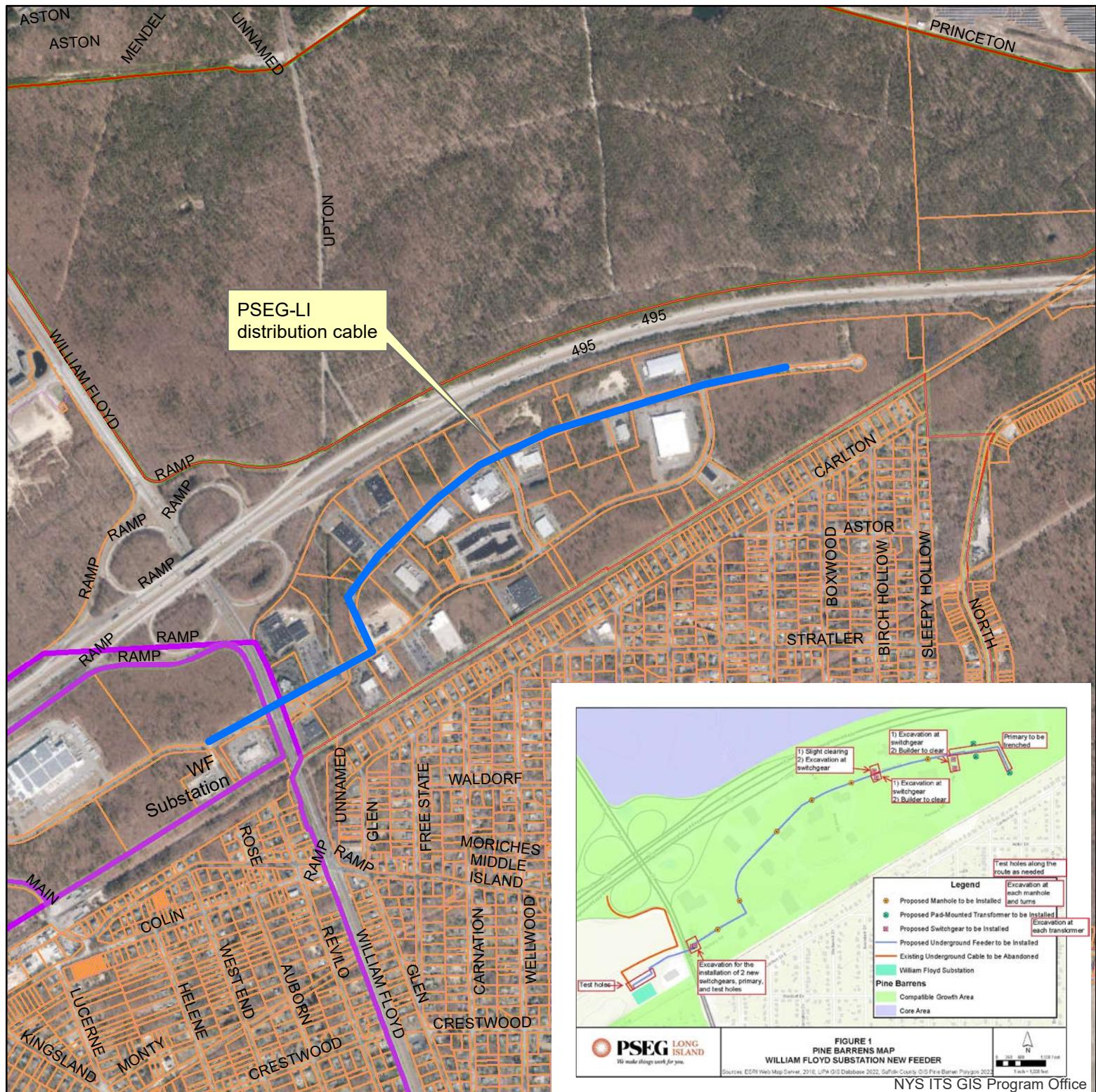
Justin LaCorte  
Licensing & Permitting, Environmental Science and Planning Analyst

Encl.

Cc: Lara Pomi-Urbat (PSEG Long Island)  
Sy Gruza (PSEG Long Island)  
Erin Gorman (PSEG Long Island)



# PSEG-LI Yaphank Compatible Growth Area June 15, 2022



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

2020 aerial

**Item 4a:**

**Tommasino CGA Hardship Public Hearing  
Draft Staff Report and Exhibits**

DRAFT



**Central Pine Barrens Commission Public Hearing**  
**June 15, 2022**  
**Brookhaven Town Hall**

**Tommasino Compatible Growth Area Hardship Waiver application**  
**88 Woodland Avenue, Manorville, Town of Brookhaven**  
**SCTM # 200-558-2-23.3**

**List of Staff Exhibits**

Yvette Aguiar  
*Member*

A. Project Site Location Map with aerial

Steven Bellone  
*Member*

B. Applicant's letter dated April 5, 2022

Edward P. Romaine  
*Member*

C. Survey

D. Photographs from June 8, 2022

Jay H. Schneiderman  
*Member*

E. Town of Brookhaven Zoning Board of Appeals decision materials

F. Study Area Map

G. Property Deed

H. Applicant's review of hardship criteria (undated)

I. Zoning district regulations for A Residence 2 and A Residence

624 Old Riverhead Road  
Westhampton Beach, NY  
11978

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

**Draft Staff Report**  
**Central Pine Barrens Joint Planning and Policy Commission**  
for the Commission meeting of June 15, 2022

**PROJECT NAME:** Desiree Tommasino  
Compatible Growth Area (CGA) Hardship Waiver Application

**APPLICATION TIMELINE:**

- April 5, 2022 Receipt of Application
- April 20, 2022 Scheduled Public Hearing
- June 15, 2022 Public Hearing
- August 2, 2022 Decision Deadline

(decide at July 20 meeting absent extension)

**OWNER/APPLICANT:** Desiree Tommasino

**PROJECT:** Development of a 9,600 square foot horse arena

**PROJECT SITE LOCATION:** 88 Woodland Avenue, Manorville, Town of Brookhaven

**PROJECT SITE AREA:** 2.3676 acres (103,136 square feet)

**SUFFOLK COUNTY TAX MAP #:** 200-558-2-23.3

**ZONING DISTRICT:** A Residence 2 Zoning District

**SEQRA:** Unlisted Action

**EXISTING CONDITIONS**

The 2.3676 acre Project Site is located on the west side of Woodland Avenue in Manorville, in the Town of Brookhaven. See Exhibit A for an aerial of the project site and immediate area.

According to the applicant's letter, the site is cleared to its maximum limit of 35%. See Exhibit B for the letter dated April 5, 2022.

The survey dated May 5, 2021 prepared by Kenneth H. Beckman, L.S. lists the amount of existing clearing equals 15.3% or 15,920 square feet. This discrepancy between the existing condition of 15% cleared or 35% needs to be clarified. See Exhibit C for the survey and Exhibit D for photographs of the site.

**APPLICANT REQUEST AND CENTRAL PINE BARRENS STATUS**

The Applicant is seeking relief from conformance with the Comprehensive Land Use Plan (the Plan) Vegetation Clearance Limit Standard (5.3.3.6.1) to clear the Project Site to a limit of 45% where a limit of 35% is permitted. The proposal is to clear an additional 10% or 0.24 acres for a total cleared area of 45% or 1.07 acres. The area left to remain natural is 55% or 1.3 acres.

## DRAFT

The applicant proposes to utilize the cleared area to build a 120 foot x 80 foot (9,600 square foot) horse arena for human therapy using horses. The owner is a certified equine specialist practicing EAGALA, an equine assisted psychotherapy and personal development specialist.

The Town Zoning Board of Appeals approved the Woodland Avenue Land Division in 2019. See Exhibit E for the Town's decision materials and subdivision map.

The Suffolk County Clerk's office has indicated that a certificate of abandonment of the underlying map needs to be filed to correctly reflect the property, the subdivision and have the new parcels drawn correctly in the tax map. The applicant should follow-up with the requirements of the County Clerk's office to have the subdivision and current lot configuration accurately represented in the tax map.

### Long Island Pine Barrens Protection Act of 1993

The proposed activity constitutes development pursuant to the definitions in New York State Environmental Conservation Law (ECL) Article 57 Section 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;"*

Development activity that does not conform with one or more standards of the Plan may either be revised to conform or the applicant must seek relief from the Commission by submitting a hardship waiver application for review and consideration.

## **SEQRA AND OTHER REQUIRED PERMITS AND APPROVALS**

- SEQRA: Project classified as an Unlisted Action. Coordinated review for Lead Agency. Coordinated review for Lead Agency. No other agency requested Lead Agency.
- New York State Office of Parks, Recreation and Historic Preservation
- New York State Department of Environmental Conservation
- Central Pine Barrens Commission Compatible Growth Area Hardship Waiver
- Town of Brookhaven clearing permit

## **SITE DESCRIPTION**

This section contains a general description of the environmental features and resources on the Project Site. Some information was provided in the Applicant's Environmental Assessment Form.

*Existing Condition and Land Use on-site:* The site has been naturally wooded and not cleared going back as far as 1947 in the aerial photography available on the County's GIS viewer at:

<https://gisapps.suffolkcountyny.gov/gisviewer/>

Since the recent Town subdivision approval, the property was cleared to its limit of 35% for the existing residence. The remaining area, 65%, is naturally vegetated

*Vegetation and Wildlife:* A pitch pine-oak-heath woodland ecological community exists in the natural area. Large oak and pitch pine trees are present as well as an understory of native shrubs and groundcover. Avian wildlife including goldfinches, yellow warblers and other songbirds are present in the area.

*Rare, Endangered, & Threatened Species and Species of Concern:* Response pending from the New York Natural Heritage Program. The area is expected to contain habitat for the Northern Long-eared Bat, a State and Federally listed Threatened species. Coordinate with NYSDEC on the habitat protection requirements and clearing windows.

The New York State Breeding Bird Atlas list contains 66 species including 25 confirmed breeding in the survey block, 6752D, covering the Project Site (note: survey block is a 3 x 3 mi). Two species of special concern were identified including Cooper's Hawk and Whip-poor-will.

*Wetlands:* No wetlands were identified in the application.

*Hydrology:* The estimated depth to water below surface is 40 feet.

[Long Island Depth to Water Viewer \(usgs.gov\)](https://longislanddepth.tamu.edu/)

*Topography/Elevation:* The Project Site is generally flat.

*Soils* (source: USDA Natural Resources Conservation Service): Plymouth loamy coarse sand, 3 to 8 percent slopes. <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

*Suffolk County Agricultural District and Purchase of Development Rights (PDR) Program:* The project site is not in either the Agricultural District or PDR Program.

*FEMA Flood Hazard Zones:* The project site is not within a flood zone.

*Cultural/Archeological Resources:* Response not received to date.

### **Surrounding Land Use and Zoning**

The Study Area is defined as a one-half mile radius around the Project Site in Manorville, south of the Long Island Expressway, in the CGA. See Exhibit F for a map with an aerial depicting the Study Area. The Study Area is roughly bounded on its north side by South Street, on the east side by Dayton Avenue and Sparrow Mining sand and gravel mine, Victoria Lane on the south side and Weeks Avenue on the west side.

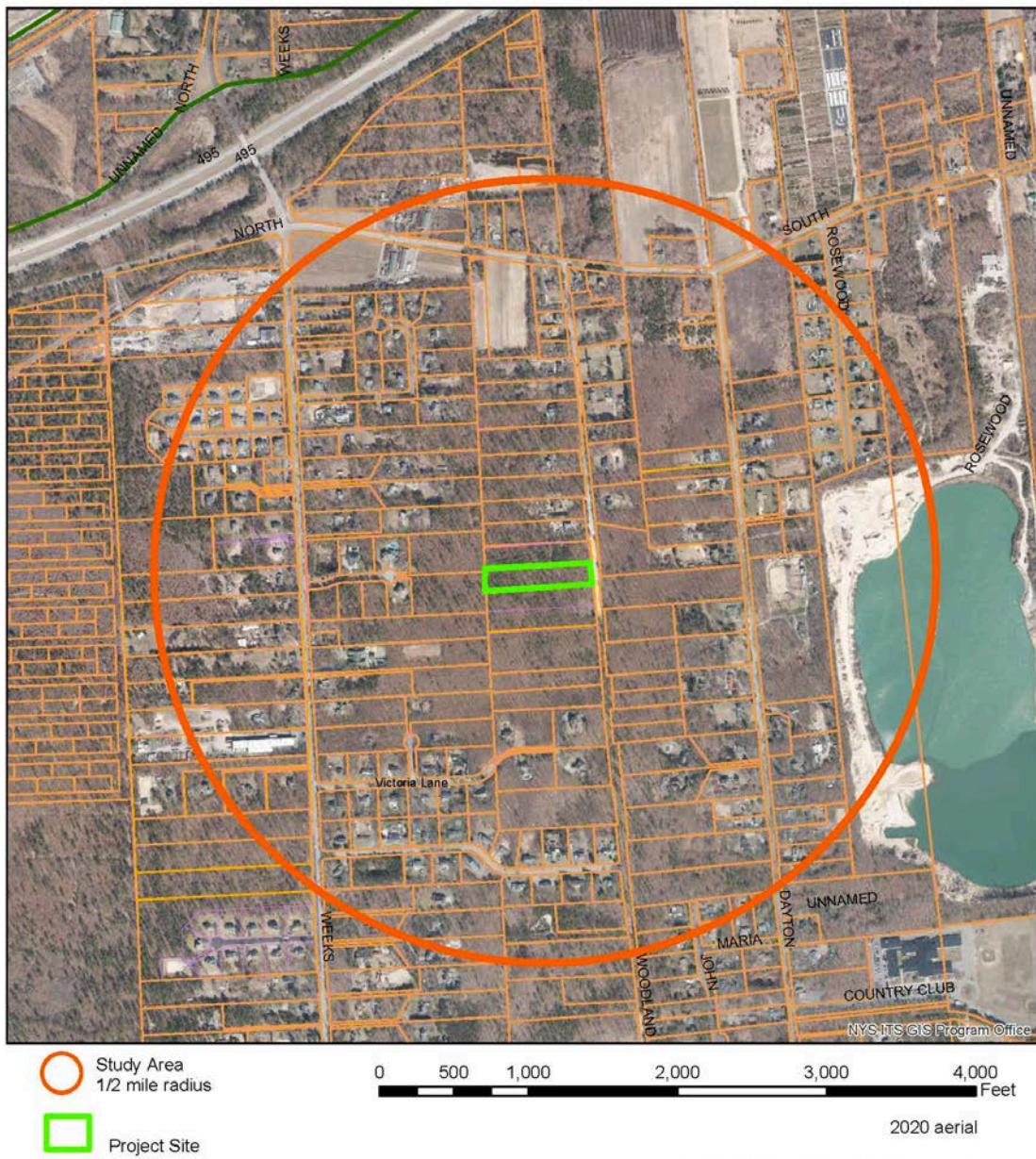
The site is in a low density residential community developed with single-family residences. The area has a rural character with large lots, woodlands and agricultural uses including residential properties with horse facilities including paddocks and barns. The 117-acre Sparrow Mining sand and gravel mine is located on the east side of the Study Area.

DRAFT

Woodland Avenue is mapped from South Street to Moriches Middle Island Road, however, it is not entirely built out. It is developed from South Street to the location of the Project Site subdivision. Only two houses exist south of the Project Site, #90 and #92 Woodland Ave. Southward from the Project Site, Woodland Avenue is an undeveloped, dirt path. Victoria Lane, with ingress on Weeks Avenue is a dead end street with no connection to Woodland Avenue yet. The property on the east side of Woodland Avenue is presently naturally wooded with pine barrens habitat.

The A Residence 2 Zoning District covers the Study Area.

Central Pine Barrens Commission Public Hearing  
Tommasino Compatible Growth Area Hardship Waiver  
88 Woodland Avenue, Manorville, Town of Brookhaven  
SCTM # 200-558-2-23.3  
Study Area Map  
June 15, 2022



## COMPREHENSIVE LAND USE PLAN STANDARDS

Development activity in the CGA must conform with the Standards for land use outlined in Chapter 5 of the Plan. The applicant did not provide a review of the project's conformance with standards. The information here is derived from the application material.

Standards		Explanation and Document Page Reference (attach additional sheets if necessary)
S 5.3.3.1.1	<b>Suffolk County Sanitary Code Article 6 compliance</b>	No response
S 5.3.3.1.2	<b>Sewage treatment plant discharge</b>	No response
S 5.3.3.2.1	<b>Suffolk County Sanitary Code Articles 7 &amp; 12 compliance</b>	No response
S 5.3.3.3.1	<b>Significant discharges and public supply well locations</b>	No response
S 5.3.3.4.1	<b>Nondisturbance buffers</b>	No response
S 5.3.3.4.2	<b>Buffer delineations, covenants and conservation easements</b>	55% of the site's natural vegetation would remain in a buffer in the rear yard after the project, according to the application
S 5.3.3.4.3	<b>Wild, Scenic and Recreational Rivers Act compliance</b>	No response
S 5.3.3.5.1	<b>Stormwater recharge</b>	No response
S 5.3.3.6.1	<b>Vegetation Clearance Limits</b>	35% of the site is presently cleared as per the standard. The proposal clears an additional 10% for a total of 45% cleared and 55% to remain natural
S 5.3.3.6.2	<b>Unfragmented open space</b>	The area to remain natural is 55% or 1.3 acres in the rear area of the site.
S 5.3.3.6.3	<b>Fertilizer-dependent vegetation limit</b>	No response
S 5.3.3.6.4	<b>Native Plantings</b>	No response
S 5.3.3.7.1	<b>Special species and ecological communities</b>	Application sent to Natural Heritage Program. Awaiting response.
S 5.3.3.9.1	<b>Receiving entity for open space dedications</b>	No response
S 5.3.3.12.1	<b>Commercial and industrial compliance with Suffolk County Sanitary Code</b>	No response

Project Site clearing data

The project site is allowed to be cleared up to 35%. The proposed activity clears 10% for a total clearing limit of 45% or 1.07 acres. An area of 55% or 1.30 acres will remain natural.

Project Site	%	Area (acres)
<b>Project Site area</b>	100%	2.3676
<b>allowed clearing per CLUP Standard 5.3.3.6.1</b>	35%	0.83
<b>total proposed clearing</b>	45%	1.07
<b>existing cleared</b>	35%	0.83
<b>existing natural</b>	65%	1.54
<b>proposed additional clearing</b>	10%	0.24
<b>amount of proposed clearing in excess of the standard</b>	10%	0.24
<b>area to remain natural</b>	55%	1.30

**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.

According to the application, the property was acquired by the applicant in 2019. See Exhibit G for the deed.

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**

Please address the hardship criteria including reasonable return, uniqueness, neighborhood character and self-created hardship. See Exhibit H for the applicant's review of the hardship criteria. See Exhibit I for the zoning district regulations for A2 Residence.

The applicant's responses include:

- 1) financial evidence: the applicant provided none.
- 2) uniqueness: the applicant states they are looking to do this in their backyard and have cleared to the allowed maximum extent of 35% and are asking to clear an additional 10%.
- 3) essential character: the applicant states 55% of the trees will remain.
- 4) the self created hardship: the applicant states they are asking for 10% more clearing. The current 35% hosts their barn and house.

Here are the criteria:

(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.

Applicable provisions in the Act are excerpted here.

### **§ 57-0123. Implementation of the Central Pine Barrens comprehensive land use plan.**

3.(a) "Subsequent 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 any municipality or county or agency thereof or the commission, and no state approval, certificate, license, consent, permit, or financial assistance for the construction of any structure or the disturbance of any land within such area shall be granted, unless such approval or grant conforms to the provisions of such land use plan; provided, however, that the commission by majority vote is hereby authorized to waive strict compliance with such plan or with any element or standard contained therein, for an application for

development of any person, upon finding that such waiver is necessary to alleviate hardship for proposed development in the core preservation area according to the conditions and finding of extraordinary hardship or compelling public need pursuant to subdivision ten of section 57-0121 of this article,..."

**SUMMARY/DISCUSSION ITEMS/ADDITIONAL INFORMATION REQUESTED**

1. No evaluation was submitted on the project's conformance with the Plan standards. The demonstration of conformance is required by the applicant and the information needs to be provided for the Commission to review and to consider as part of their decision-making process.
2. Address the hardship criteria.
3. Is Woodland Avenue a Town road?
4. Provide a demonstration of every use permitted in the zoning regulations as per the 267-b criteria requirements.
5. Is the requested waiver the minimum relief necessary?
6. Does the applicant have additional plans for the property? Are accessory uses proposed? Will the area be adequate to address other needs/uses on the property, related or not related to this project?
7. Consult with NYSDEC on the species and habitat protection requirements for the State and Federal listed Threatened Northern Long-eared Bat.
8. The County Clerk's office has indicated that a certificate of abandonment of the underlying map is needed to correctly reflect the property and the rest of the subdivision in the tax map.
9. 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 from the Applicant and the public during the written comment period.

**HEARING EXHIBITS**

- A. Project Site Location Map with aerial
- B. Applicant's letter dated April 5, 2022
- C. Survey
- D. Photographs
- E. Town of Brookhaven Zoning Board of Appeals decision materials
- F. Study Area Map
- G. Property Deed
- H. Applicant's review of hardship criteria (undated)
- I. Zoning district regulations for A Residence 2 and A Residence

88 Woodland Avenue, Manorville, Town of Brookhaven  
SCTM # 200-558-2-23.3  
Compatible Growth Area



NYS ITS GIS Program Office

0 200 400 800 1,200 1,600  
Feet

2020 aerial

April 5<sup>th</sup> 2022

B

Dear Pine Barres Commission,

My name is Desiree Tommasino and I am an EAGALA certified equine specialist. An EAGALA equine specialist works with a mental health therapist in order to provide behavioral therapy for people by using horses in an arena setting. My husband and I own land within the Pine Barrens in Manorville and are looking to clear a little bit more of our land. We would like to build a 80 X 120 horse arena behind our barn. It will be used privately to practice my EAGALA skills with my horses in order to better serve my clients and the community. By continuing my education in my own backyard, I can then bring those skills to my other farm to work with me. According to the convenience provided by The Town Of Brookhaven and the Pine Barrens for a 2 acre lot the max clearing is 35%. We have already cleared the 35% and are asking for an additional 10% which would come out to 45% clearing in total. By allowing us to clear their will still be a 55% buffer zone remaining and being its only a horse arena there will be no heavy foot traffic or large buildings.

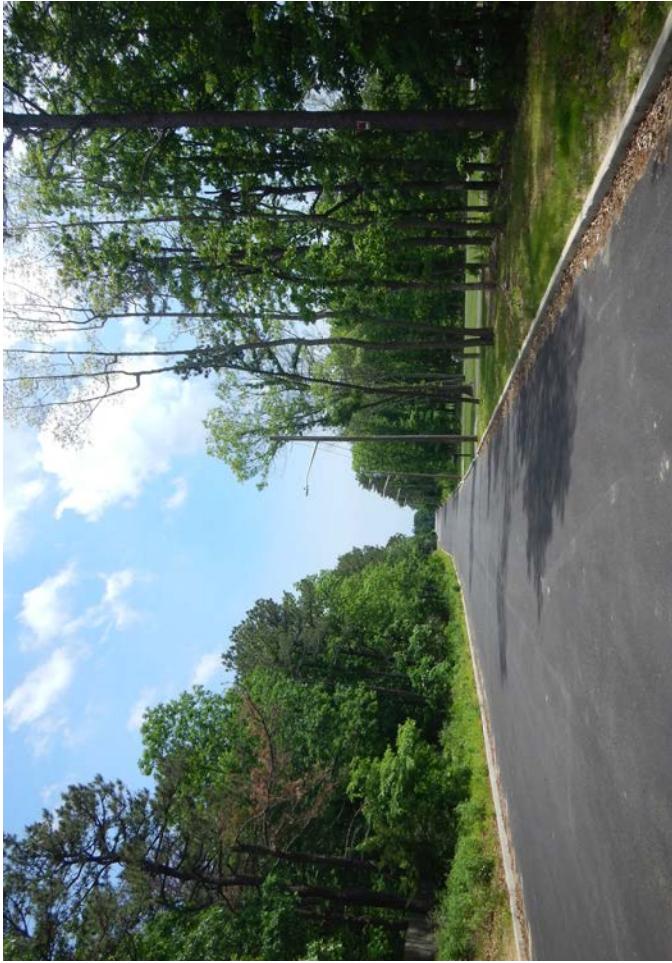
Thank you,

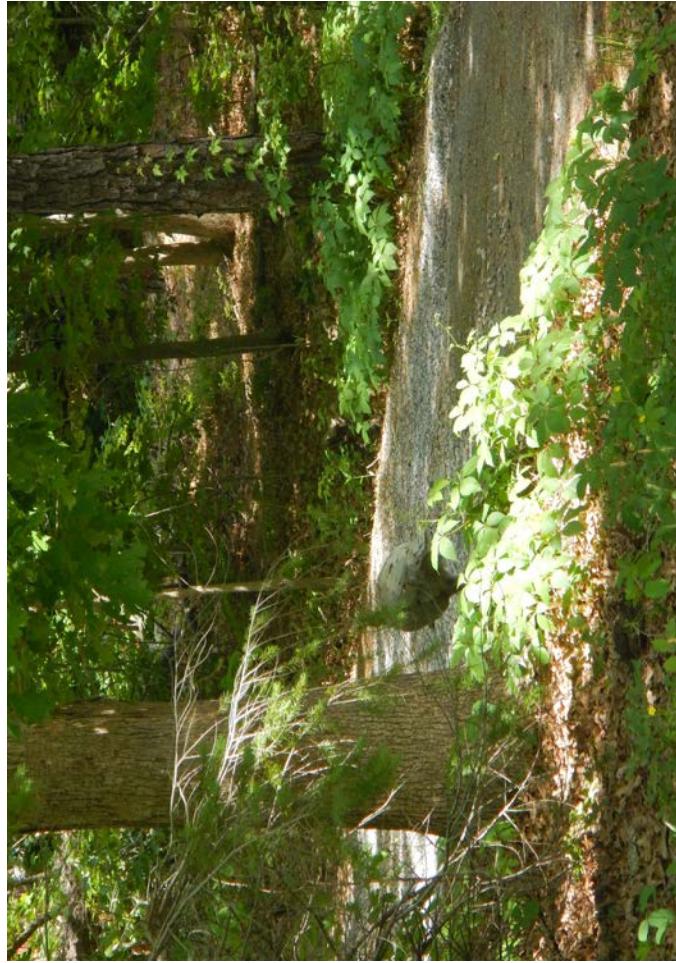
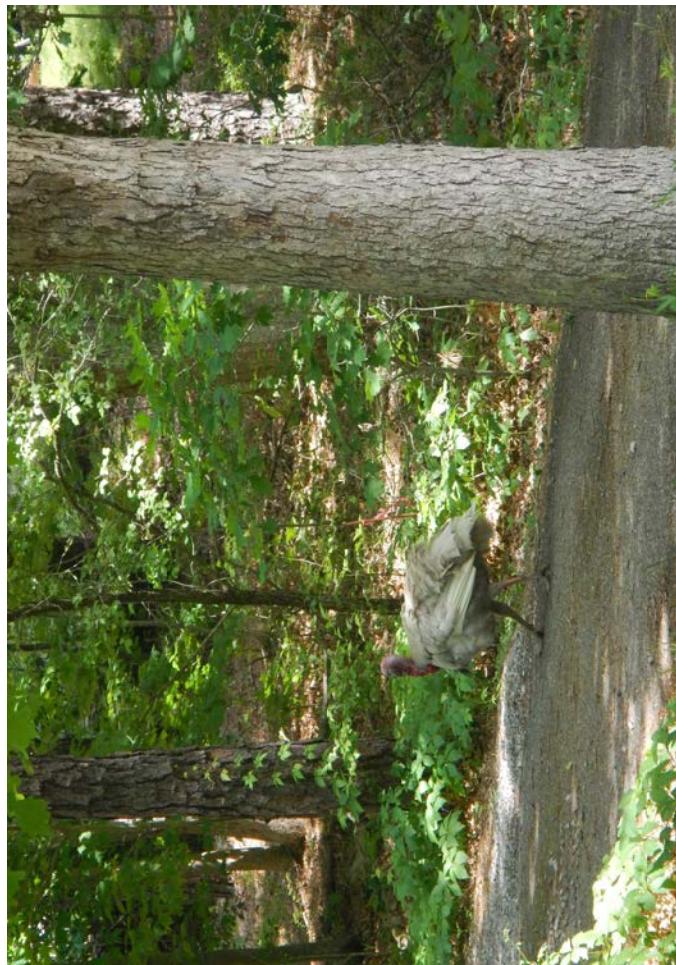
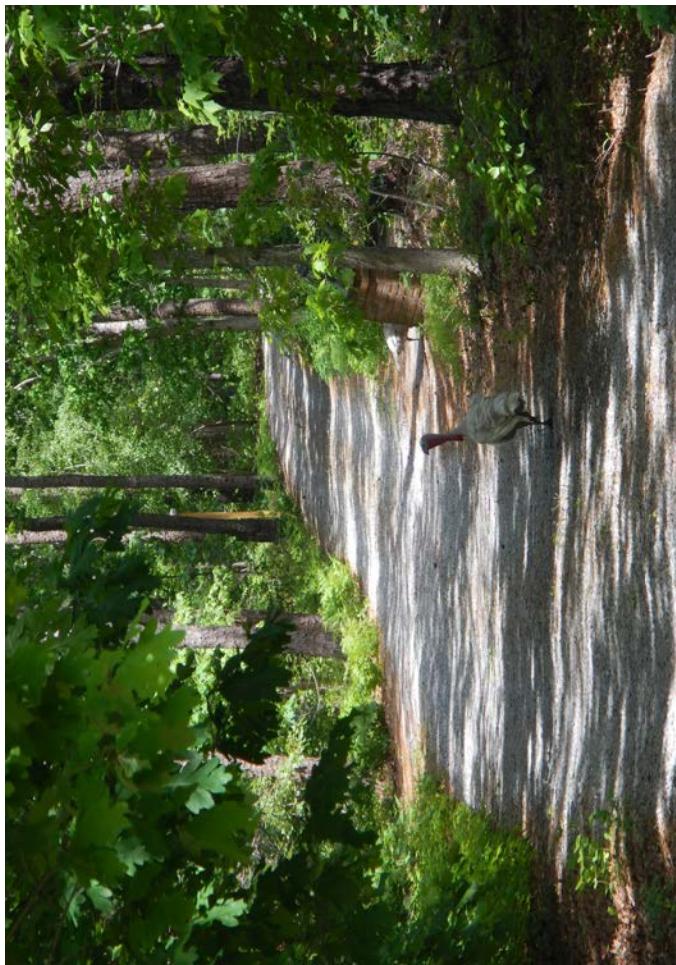
Sincerely

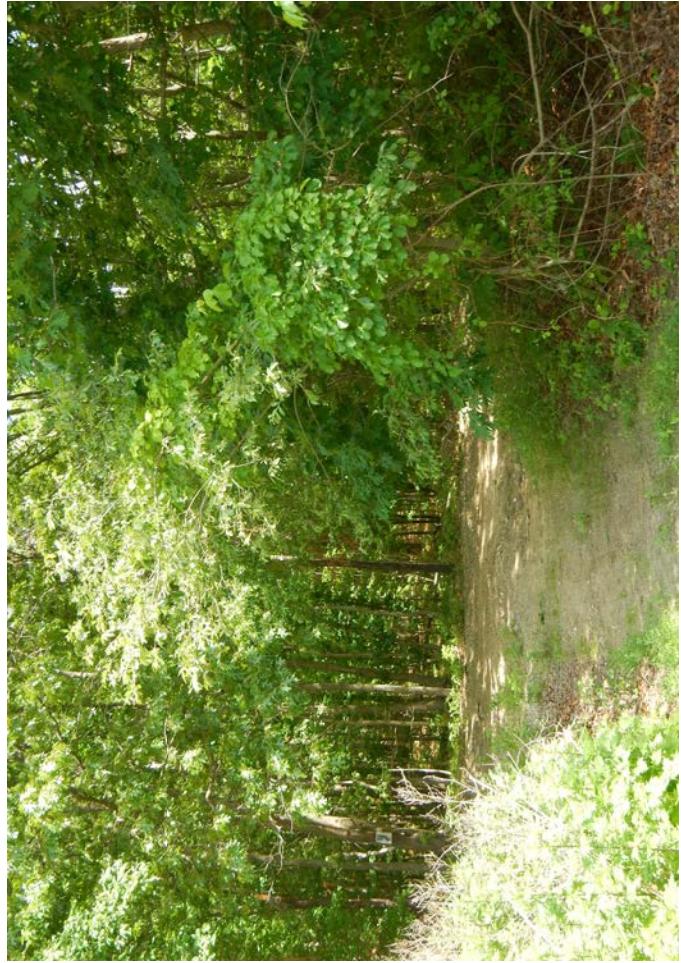
*Desiree Tommasino*

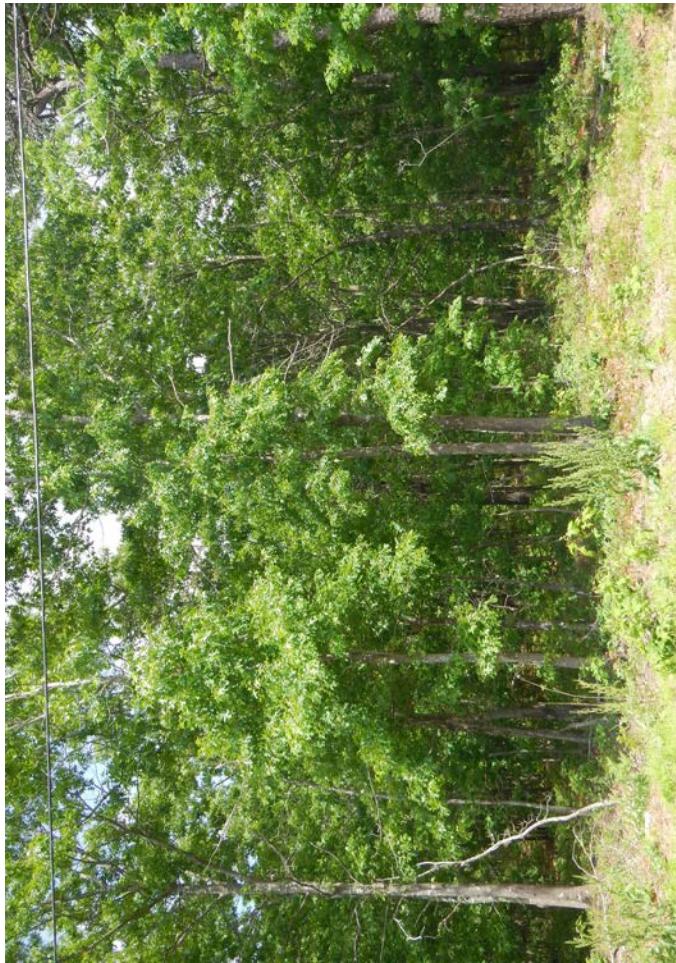
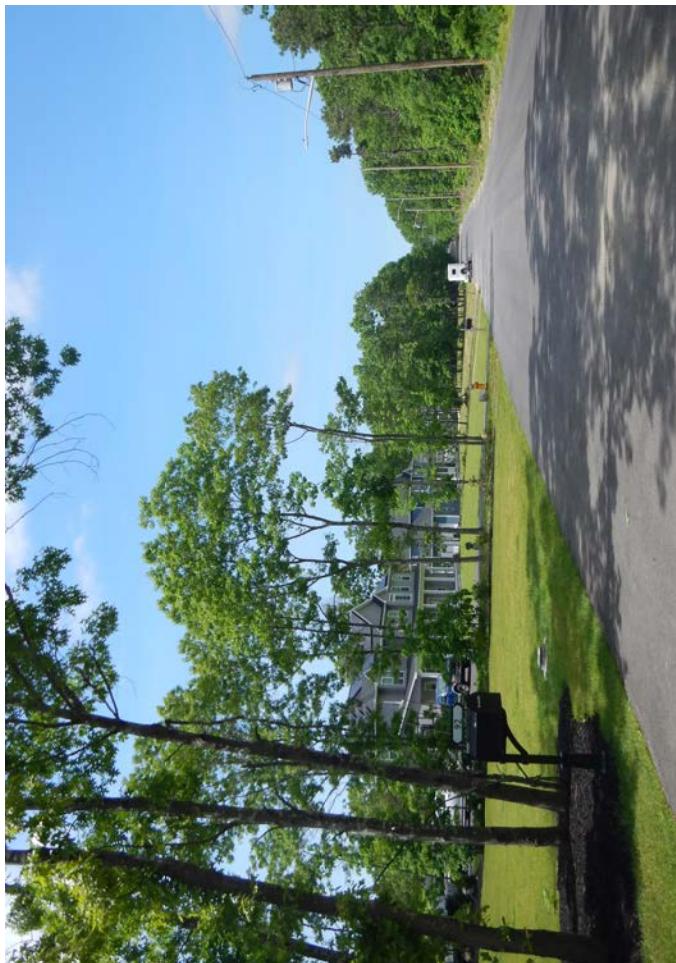














# Town of Brookhaven Long Island

## OFFICE OF THE BOARD OF ZONING APPEALS

**Paul M. DeChance**, Chairman

Dec. 5, 2016

Re: Campo Bros.: West side Woodland Ave. 1830'+/-, 1976'+/- 2121'+/- & 2267'+/-  
South of South St. (plots "1", "2", "3" & "4", Manorville. Applicant requests division of  
a parcel into 4 plots requiring: (0200 55800 0200 023001)(PB-CGA)

lot area:	lot frontage: <b>all plots</b>	front yard setback:
rear yard:	min. side yard:	total side yard:

for proposed one family dwelling on each plot.

At a public hearing of the Town of Brookhaven Board of Zoning Appeals held  
**November 60, 2016** application No. **3** was duly considered and action taken as follows:

**Negative declaration under SEQRA issued (unlisted action); granted, respectively; subject to all recommended mitigation measures of the B.Z.A. Planner (enclosed); subject to the execution and filing in the office of the Suffolk County Clerk of covenant and restrictions for mitigation measures #3a, b & c, except #3c is amended to reflect a 425 ft. buffer on the west side of lots 1 thru 4; said covenants & restrictions that are to be filed in the office of the Suffolk County Clerk shall be submitted to the Town of Brookhaven Law Department within 180 days of the Board's decision for review and approval prior to filing with the Suffolk County Clerk. Failure to comply with this requirement shall render this grant null and void.**

If this is a notice of approval, it is necessary for you to bring this letter with you to the Building Dept. in order to obtain the required building permit and/or certificate of occupancy or compliance within **two years**. You must comply with Section 85-59 of the Town Code. Failure to do so will render this approval **null and void**. If this is a residential subdivision, you will be required to pay recreation fees to the Planning Division in accordance with the code of the Town of Brookhaven.

Please contact our office if you have any questions.

Sincerely,

Paul M. DeChance  
Chairman

Enc.

**Hearing Date: November 30, 2016 case(s) #3 thru 6**

Applicant: Campo Brothers

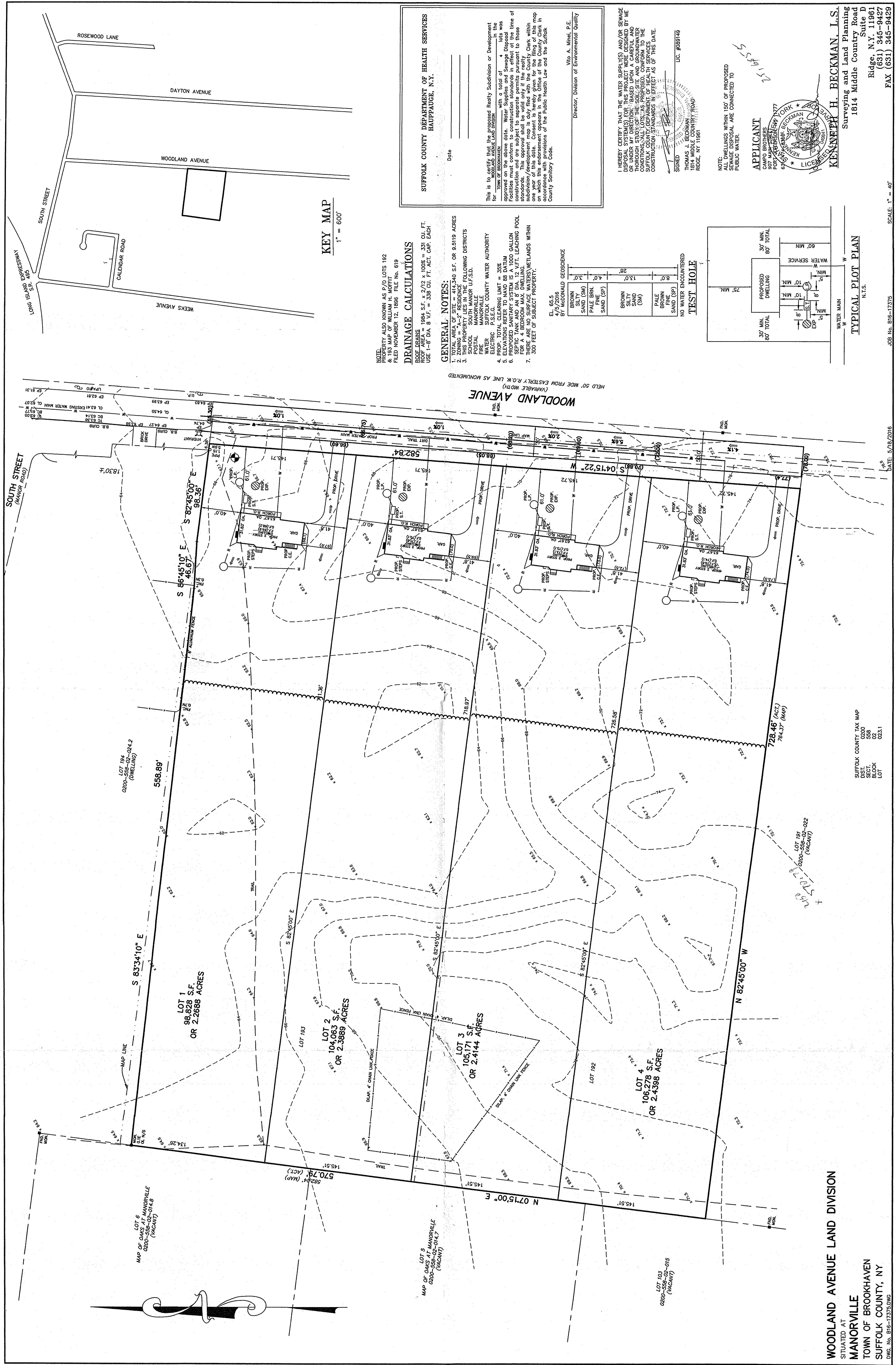
Action: Applicant seeks area variances for a four-lot land division

Location: w/s/o Woodland Ave., 1,830 ft. s/o South St., Manorville

SCTM #: 0200 558.00 02.00 023.001

**Should the Board of Zoning Appeals decide to grant the application, Christopher Wrede, planner for the BZA, recommends the following mitigation measures:**

1. No construction activity shall commence until a building permit has been issued.
2. No building permits may be issued until all covenants contained herein have been recorded, and such building permit shall be conditioned upon the applicant adhering to all other conditions contained herein.
3. Covenants required:
  - a. No further subdivision of lots
  - b. Maximum fertilizer dependent vegetation shall be limited to 15% for lots one through four.
  - c. A 475 ft. natural and undisturbed buffer zone shall be established on the western property line of lots one through four.
4. Proper collection and/or retention of stormwater runoff created by the development/improvement is required, in terms of adequate drainage structures including, but not limited to, gutters and leaders to on site dry wells, as directed by the Planning Department.
5. Erosion control practices shall be implemented during construction. All disturbed ground surfaces shall be graded and seeded prior to final inspection for certificate of occupancy. If seeding is impractical, straw mulch shall be applied until favorable weather permits seeding, or other erosion control measures acceptable to the inspector is installed.
6. Individual surveys submitted for building permits shall state and depict all covenants and restrictions listed.
7. Subject to a Town of Brookhaven Department of Highway work permit and/or road improvement plan for improvements within the Woodland Avenue right-of-way, as applicable.



Central Pine Barrens Commission Public Hearing  
Tommasino Compatible Growth Area Hardship Waiver  
88 Woodland Avenue, Manorville, Town of Brookhaven  
SCTM # 200-558-2-23.3  
Study Area Map  
June 15, 2022



Study Area  
1/2 mile radius

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

Project Site

2020 aerial

DRAFT for discussion purposes only

CONSULT YOUR LAWYER BEFORE SIGNING THIS DOCUMENT-THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

**THIS INDENTURE**, made this 28 day of April in the year 2021  
*Conveyed May 21, 2021*  
**BETWEEN**

AEJJ ASSOCIATES, LLC  
907 Main Street  
Port Jefferson, NY 11777

party of the first part, and

PAUL RESCH and DESIREE TOMMASINO, *as husband and wife*  
21 Deepdale Drive  
Commack, NY 11725

party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of Ten (\$10.00) Dollars  
paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or

successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying  
and being in the  
SEE ATTACHED SCHEDULE "A"  
SCTM: 0200-558-2-p/o 23.2

Being and intended to be the same premises as described in deed dated October 15, 2014 and October 29, 2019,  
in Liber 13034, page 346.

The party of the first part expressly reserves title to the bed of the street adjoining said premises for purposes of  
future street dedication to the Town of Brookhaven.

Further excepting Seller's rights to dedicate municipally required easements and grantee shall take subject to all  
such required easements now or hereinafter adopted.

This transfer is made with the unanimous consent of the shareholders/members.

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads  
abutting the above described premises to the center line thereof; **TOGETHER** with the appurtenances and all the  
estate and rights of the party of the first part in and to said premises; **TO HAVE AND TO HOLD** the premises  
herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second  
part forever.

**AND** the party of the first part covenants that the party of the first part has not done or suffered anything whereby  
the said premises have been encumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first  
part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust  
fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the  
payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if to read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

**IN PRESENCE OF**

AEJJ ASSOCIATES LLC

*Emily Campo*

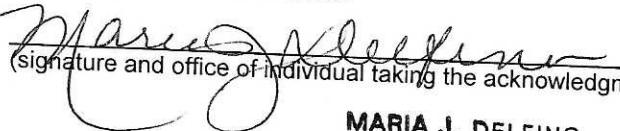
EMILY CAMPO, Member

**TO BE USED ONLY WHEN THE ACKNOWLEDGMENT IS MADE IN NEW YORK STATE**

State of New York, County of SUFFOLK

On the 28th day of April in the year 2021  
before me, the undersigned, personally appeared  
EMILY CAMPO

personally known to me or proved to me on the basis of  
satisfactory evidence to be the individual(s) whose name(s) is  
(are) subscribed to the within instrument and acknowledged to me  
that he/she/they executed the same in his/her/their capacity(ies),  
and that by his/her/their signature(s) on the instrument, the  
individual(s) or the person upon behalf of which the individual(s)  
acted, executed the instrument.

  
(signature and office of individual taking the acknowledgment)

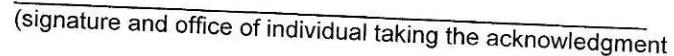
**MARIA J. DELFINO**  
NOTARY PUBLIC-STATE OF NEW YORK  
No 01DE6273805  
Qualified in Suffolk County 21  
My Commission Expires 12-24-2020

ss.: State of New York, County of

ss.:

On the      day of      in the year  
before me, the undersigned, personally appeared

personally known to me or proved to me on the basis of  
satisfactory evidence to be the individual(s) whose name(s) is  
(are) subscribed to the within instrument and acknowledged to me  
that he/she/they executed the same in his/her/their capacity(ies),  
and that by his/her/their signature(s) on the instrument, the  
individual(s) or the person upon behalf of which the individual(s)  
acted, executed the instrument.



**TO BE USED ONLY WHEN THE ACKNOWLEDGMENT IS MADE OUTSIDE NEW YORK STATE**

State (or District of Columbia, Territory, or Foreign Country) of

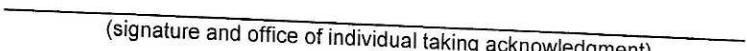
On the      day of      in the year  
personally appeared

before me, the undersigned,

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is  
(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their  
capacity(ies) and that by his/her/their signature(s) on the instrument, the individual(s) or person upon behalf of which  
in the  
the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned

(insert the City or other political subdivision)

in \_\_\_\_\_  
(and insert the State or Country or other place the acknowledgment was taken)



**BARGAIN AND SALE DEED  
WITH COVENANTS AGAINST  
GRANTOR'S ACTS**

Title No. STB-035978MWS

TO

Intracoastal Abstract Co., Inc.  
31 Stewart Street  
Floral Park, NY 11001

SECTION  
BLOCK  
LOT  
COUNTY OR TOWN  
STREET ADDRESS

**RETURN BY MAIL TO:**

Robert Biscay, Esq.  
105 Maxess Road, Suite 1215  
Melville, NY 11747

(Reserve this space for recording office)

# Safe Harbor Title Agency, Ltd.

## Schedule A

Title Number **SH20211531**

Underwriter **FN**

Page **1**

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Brookhaven, County of Suffolk and State of New York, being known and designated as part of Lot No. 193 on a certain map entitled "Map of William H. Moffit" filed in the Suffolk County Clerk's Office on 11/12/1896 as Map No. 619, being bounded and described as follows:

BEGINNING at a point on the westerly side of Woodland Avenue, distant 1976 feet (more or less) from the southerly end of an arc of a curve connecting the southerly side of South Street (Manor Road) and the westerly side of Woodland Avenue;

RUNNING THENCE from said point of beginning, along the westerly side of Woodland Avenue, South 04 degrees 15 minutes 22 seconds West, 145.71 feet;

THENCE North 82 degrees 45 minutes 00 seconds West, 712.59 feet;

THENCE North 07 degrees 15 minutes 00 seconds East, 145.51 feet;

THENCE South 82 degrees 45 minutes 00 seconds East, 704.98 feet to the westerly side of Woodland Avenue and the point or place of BEGINNING.

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;

The arena that is to be built will be used to hone in and practice my skillets for EAGALA with my horses and keep my certification fresh.

(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 arena is unique because we are looking to do it right in our backyard. We have cleared the all ready allowed maximum of 35% and are only asking for an additional 10% of the land to be cleared.

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

This will not alter the essential character of the neighborhood as there will still be an additional 55% of trees left on the property nor are we looking to build a building of any sorts.

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

The covenant and restrictions to the other 10% we are asking for is put in place by both the pine barrens and the town of brookhaven. The current 35% clearing that is allowed currently hosts our barn and house.

(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.

## ZONING

### 85 Attachment 1

**Town of Brookhaven**  
**Residential Districts: Table of Dimensional Regulations**  
**§ 85-177**

Use	A Residence One-Family	A Residence 1 One-Family	A Residence 2 One-Family	B Residence One-Family	B Residence 1 One-Family	C Residence One-Family	D Residence One- and Two-Family	D-1 Residence One-Family	A Residence 5 One-Family	A Residence 10 One-Family
Maximum height (feet/stories)	35/2 1/2	35/2 1/2	35/2 1/2	35/2 1/2	35/2 1/2	35/2 1/2	35/2 1/2	35/2 1/2	35/2 1/2	35/2 1/2
Minimum area (square feet)	30,000	40,000	80,000	15,000	22,500	9,000	15,000	15,000	200,000	400,000
Maximum total building area (percentage of lot area)	15%	15%	15%	20%	20%	35%	30%	30%	6%	3%
Minimum road frontage (feet at a point in feet back from street line)	150/40	175/50	200/60	100/40	125/40	75/30	150/40	150/40	300/70	400/80
Minimum front yard (depth in feet)	40	50	60	40	40	30	40	40	70	80
Minimum side yard (width in feet)	20	25	30	18	20	12	12	12	35	40
Minimum total side yards (feet)	60	75	80	40	45	30	30	30	85	90
Minimum rear yard (feet)	60	60	75	50	60	30	30	30	80	85
<b>Accessory Structures</b>										
Maximum height (feet)	18	18	18	18	18	18	18	18	18	18
Minimum setback from any lot line (feet)	10	10	20	7 1/2	7 1/2	5	10	10	20	20
Minimum setback from street (feet)	60	70	80	60	60	50	50	50	90	95
Maximum lot coverage (percentage of required rear yard area)	25	25	25	25	25	25	25	25	12 1/2	10

NOTES:  
<sup>1</sup> See § 85-232E.

## Chapter 85. Zoning

### Article XIV. Residence Districts

#### § 85-190. A Residence District.

A. Principal uses are as follows:

[Amended 5-21-2015 by L.L. No. 7-2015, effective 6-2-2015; 5-13-2021 by L.L. No. 8-2021, effective 5-27-2021]

- (1) One-family dwellings, except that mobile homes shall not be a permitted principal use.
- (2) Churches or similar places of worship and parish houses.
- (3) Convents and monasteries.
- (4) Open farming; provided, however, that no storage of manure, compost, mulch or odor- or dust-producing substances shall be permitted within 150 feet of any street line. The sale at retail or wholesale of farm, garden or nursery products produced on the premises shall be permitted; however, nothing herein shall permit the screening and sale to others of compost or mulch materials.
- (5) Public and parochial schools and private schools having a curriculum similar to that ordinarily given in public schools, but not including day-care facilities.

B. Accessory uses, when located on the same lot with a permitted principal use, are as follows:

[Amended 10-3-2019 by L.L. No. 22-2019, effective 10-16-2019; 5-13-2021 by L.L. No. 8-2021, effective 5-27-2021]

- (1) Private garages.
- (2) Offices of a physician, lawyer, architect, teacher or similar professional person residing on the premises and when such use is incidental to such residence; provided, however, that such use shall be within the main building and occupying not more than 1/3 of the first-floor area.
- (3) Customary home occupations only when conducted by the person residing on the premises.
- (4) Fences. No fence may be erected having a height greater than four feet from the ground, except as follows:
  - (a) Where a residence has been erected, a six-foot fence may be erected in the rear yard, provided that, if it is on an interior lot, said six-foot fence may be erected in the rear yard to extend along the rear lot line and along the side lot lines to a point not forward of the front foundation line of the residence, and thence from said lot lines to the front point of said foundation; on a corner lot, a six-foot fence may be erected in the rear yard to extend along the rear lot line and along the secondary front lot lines, except that no such fence shall project into the required primary front yard; and on a through lot, a six-foot fence may be erected in the rear yard along the two side lot lines and the secondary front lot line. A six-foot fence in the secondary front yards on corner lots and in the secondary front yard on through lots shall be considered a structure requiring a building permit. All such fences shall comply with the site visibility requirements of this Code.
  - (b) If such fence shall be erected along any street, the permitted height thereof shall be measured from the existing elevation of the center line of such street opposite such fence, unless such fence is of open woven wire or other such design as will not obstruct sight visibility. Such height so measured shall not exceed 2 1/2 feet at any point within a radius of 30 feet of the corner formed by any intersecting streets. The provisions hereof shall also apply to hedges or any other densely growing shrubbery.

- (c) Wire strand and open woven wire fences six feet in height above ground level shall be permitted on all lot lines of property principally devoted to agriculture, provided that such height so measured shall not exceed four feet at any point within a radius of 30 feet of the corner formed by any intersecting streets.
- (d) Use of barbed-wire fencing, ribbon-wire fencing or electrical fencing shall be subject to approval by the Planning Division or, in the event that Planning Division review is not otherwise required, approval by the Zoning Board of Appeals pursuant to Subsection **C** below.

(5) Signs, as permitted and regulated in Chapter **57A**.

(6) Barns, as defined in this chapter, subject to the following:

- (a) A maximum height of 18 feet;
- (b) A fifty-foot rear yard and fifty-foot side yard setback shall be provided;
- (c) To be located in the rear yard only; and
- (d) No more than 25% lot coverage of the rear yard shall be occupied by such structure, except that in the A-5 and A-10 Residential Zoning Districts, it shall be pursuant to the Residential Districts Table of Dimensional Regulations.<sup>[1]</sup>

[1] *Editor's Note: The Residential Districts Table of Dimensional Regulations is included as an attachment to this chapter.*

(7) Other customary accessory uses, structures and buildings, provided that such uses are clearly incidental to the principal use and do not include any activity commonly conducted as a business. Except with regard to construction on property principally used for agriculture, any accessory building shall be located on the same lot with the principal building, and no accessory building shall be constructed on a lot until the construction of the main building has actually been commenced, and no accessory building on the lot shall be used until the main building is completed and used.

(8) Accessory apartments, subject to all requirements and limitations set forth in § **85-258**.

(9) Detached storage sheds.

- (a) All storage sheds shall be considered structures.
- (b) Detached storage sheds, not greater than 12 feet in height above surrounding grade and not exceeding 600 square feet in floor area.
- (c) Detached storage sheds, not greater than 12 feet in height above surrounding grade and less than or equal to 144 square feet in floor area, may be located not closer than three feet to a side or rear property line. However, said structure may not be located within a required side yard.
- (d) Detached storage sheds, not greater than eight feet in height above the surrounding grade, not exceeding 100 square feet in floor area, may be located not closer than three feet to a side or rear property line. Said structure may be located within a required side yard.

(10) Model dwellings. Model dwellings where the same are to be located on lots on an approved final subdivision map or an approved residential site plan and are intended to be used as model dwellings for the sale of homes to be located within the subject project site. Permission for location of said models shall be obtained from the Planning Board and shall be issued for a period not to exceed two years. The Planning Board may renew said permit upon application, provided that the model dwelling has been constructed and used in accordance with the approved site plan.

(11) Greenhouses. Greenhouses, so long as the use of said structure(s) is solely incidental to the permitted principal use and otherwise conforms with the applicable dimensional requirements set forth in this chapter.

(12) Equipment.

- (a) All equipment, including but not limited to filters, heaters and pumps, associated with the use or operation of a private swimming pool, may be located in any portion of a side or rear yard and shall not be located less than five feet from any side or rear lot line. Nothing herein shall be construed to amend, supersede or otherwise alter the requirements of Town Code Chapter **50** "Noise Control."
- (b) Generators may be located in any portion of a side or rear yard and shall not be located less than five feet from any side or rear lot line. Nothing herein shall be construed to amend, supersede or otherwise alter the requirements of Town Code Chapter **50**, Noise Control.

- (c) Air-conditioning equipment may be located in any portion of a side or rear yard and shall not be located less than five feet from any side or rear lot line. Nothing herein shall construed to amend, supersede or otherwise alter the requirements of Town Code Chapter **50**, Noise Control.
- (13) An outdoor fireplace may be located in any portion of a side or rear yard and shall not be located less than 15 feet from any side or rear lot line and shall comply with all New York State and Town Fire Codes.
- (14) Pool house/cabana, as defined in this chapter, subject to the following:
  - [Added 6-24-2021 by L.L. No. 10-2021; effective 7-7-2021]
  - (a) Shall be no larger than 400 square feet in floor area; and
  - (b) Shall not exceed 14 feet in height; and
  - (c) Contains no indoor kitchen and is not otherwise designed, equipped, or used for cooking; and
  - (d) Contains no heat; and
  - (e) Shall not be used for sleeping purposes; and
  - (f) Contains no more than one room and bathroom; and
  - (g) Interior plumbing fixtures shall be limited to a sink plus one bathroom containing a toilet and a sink. No indoor shower shall be established; and
  - (h) Shall be located in the rear or nonrequired side yards and shall comply with accessory structure setbacks for side and rear lot lines yard; and
  - (i) Shall not otherwise be configured or used as habitable space.

C. The following uses shall be permitted when authorized by special permit from the Board of Appeals:

- (1) Dwelling models, except for dwelling models approved by the Planning Board pursuant to Subsection **B(9)** above, provided that the following conditions are met:
  - (a) Site plan review and approval by the Planning Board shall be obtained simultaneously with or prior to the issuance of a special permit.
  - (b) Off-street parking for at least four automobiles for one model dwelling unit and two additional spaces for each additional adjoining model dwelling unit shall be required.
  - (c) No exterior spotighting or floodlighting shall be permitted which will result in annoying glare directed or reflected toward residential dwellings or residential zoning districts.
  - (d) Prior to the issuance of a special permit for a model dwelling built on a lot that does not conform to the requirements of the zone in which it is located, the owner must execute a consent, in a form acceptable to the Town Attorney, which consent will authorize the Chief Building Inspector to demolish or cause to be removed said model dwelling if the same is not removed by the owner thereof within 45 days of the expiration of the special permit. The applicant shall also consent that all costs and expenses incurred by the Town of Brookhaven in connection with the removal of the model dwelling shall be assessed against the land on which said buildings are located. The amount of such cost and expense shall be determined and audited by the Town Board and shall be reported to the Board of Assessors of the Town of Brookhaven as an amount to be levied and assessed against said premises as an assessment for an improvement to be included in the next succeeding assessment roll of the Town of Brookhaven to be thereafter prepared. Thirty days after the expiration of the special permit, the Chief Building Inspector shall mail a notice to the applicant for the special permit and the latest assessed owner of record for the subject property. Such notice shall indicate that, unless the subject model dwelling is removed within 15 days, the Town will proceed to remove the dwelling and assess the costs against the property. The Chief Building Inspector shall also cause such notice to be posted on the front door of the subject model dwelling. If the dwelling is not removed, the Building Division may cause it to be removed or demolished as above provided.
  - (e) The special permit shall be issued for a period not to exceed five years. The Zoning Board of Appeals may renew said permit upon application, provided that the model dwelling has been constructed in accordance with the site plan, the conditions attached to the special permit, and this chapter.
- (2) Day-care facilities.

- (3) Upon a showing of need to protect private property, where the safety of residents will not be placed in jeopardy, barbed-wire fencing, ribbon-wire fencing or electrical fencing, unless the Planning Division has approved or disapproved such use during site plan review.
- (4) Other agriculture.
- (5) A one-family dwelling occupied by more than eight persons living and cooking together as a single housekeeping unit though non-related by blood, adoption, or marriage, provided that all of the following conditions are met:
  - (a) Submission of proof of a valid operating certificate, permit, and/or approval having been issued by the appropriate federal, state and/or county agency or department for the proposed use when the same is mandated by law; and
  - (b) The location of the use does not unduly increase traffic congestion, off-site parking, and noise levels on public streets.

D. The following uses shall be permitted when authorized by special permit from the Planning Board:  
[Amended 5-12-2016 by L.L. No. 10-2016, effective 5-25-2016]

- (1) Colleges and universities; provided, however, that the plot has an area of not less than 75 acres and a continuous street frontage of not less than 400 feet; and provided further that the total building area shall not exceed 20% of the total plot area; the location of all buildings and structures shall be subject to approval by the Planning Board.
- (2) Golf courses and country clubs having a plot area of not less than 50 acres.
- (3) Human cemeteries.
- (4) Museum reuse of historic structures identified on the State or National Register of Historic Places or designated as a local landmark.
- (5) Parks, playgrounds, athletic fields, bathing beaches, bathhouses or boathouses, excluding uses permitted as set forth in § 85-511 of this chapter.
- (6) Private community center, recreation buildings and outdoor recreation facilities as part of a homeowners', condominium or community association.
- (7) Voluntary nonprofit ambulance companies.

## **Chapter 85. Zoning**

### **Article XIV. Residence Districts**

#### **§ 85-204. A Residence 2 District.**

**A. Permitted uses are as follows:**

- (1) All principal uses, accessory uses and uses authorized by special permit which are permitted in the A Residence District.

**Item 4b:**

**Fink's Farm CGA Hardship Public Hearing**

**Draft Staff Report and Exhibits**

DRAFT



**Central Pine Barrens Commission Public Hearing**  
**June 15, 2022**  
**Brookhaven Town Hall**

**Fink's Country Farm**  
**Compatible Growth Area Hardship Waiver application**  
**6242 Middle Country Road**  
**Wading River, Town of Riverhead**  
**SCTM # 600-134-1-1.3**

**List of Staff Exhibits**

Yvette Aguiar  
*Member*

Steven Bellone  
*Member*

Edward P. Romaine  
*Member*

Jay H. Schneiderman  
*Member*

- A. Project Site Location Map with aerial
- B. Photographs
- C. Site map and clearing
- D. 2013 letter and response
- E. Business CR and RB80 Zoning Code sections and dimensional regulations tables
- F. Wetland habitats in the vicinity
- G. Suffolk County Agricultural District map
- H. Suffolk County Purchase of Development Rights map
- I. 2021 letter for the property SCTM #600-115-1-5
- J. Study Area Map
- K. Peconic River headwaters narrative and maps
- L. Applicant's review of Standards
- M. Applicant's letter dated January 5, Affidavit of David Fink, Affirmation of Nicholas C. Rigano, Esq., and the Fink's Financial Report

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**Draft Staff Report**  
**Central Pine Barrens Joint Planning and Policy Commission**  
for the Commission meeting of June 15, 2022

**PROJECT NAME:** Fink's Country Farm, Inc.  
Compatible Growth Area (CGA) Hardship Waiver Application

**APPLICATION TIMELINE:**

- April 5, 2022 Receipt of Application
- April 20, 2022 Scheduled Public Hearing
- May 18, 2022 Adjourned Public Hearing one month and one month extension
- June 15, 2022 Public Hearing
- September 2, 2022 Decision Deadline (decide at August 17 meeting absent an extension)

**OWNER/APPLICANT:** Michelle and David Fink for Chemma LLC

**PROJECT:** Clearing for agricultural use

**PROJECT SITE LOCATION:** 6242 Middle Country Road  
Wading River, Town of Riverhead

**PROJECT SITE AREA:** 11.12 acres

**SUFFOLK COUNTY TAX MAP #:** 600-134-1-1.3

**ZONING DISTRICT:** Residence B-80 (RB80) Zoning District

**SEQRA:** Unlisted Action or Type I if the substantially contiguous publicly owned County land is “parkland, recreation area or designated open space”

**EXISTING CONDITIONS**

The 11.12 acre Project Site is located on the north side of Middle Country Road (NYS Route 25), west of Wading River Manor Road and east of Tarkill Road, in the hamlet of Wading River, in the Town of Riverhead. See Exhibit A for an aerial of the project site and immediate area.

At present, 65%, or 7.28 acres, of the parcel is cleared/ The application states the cleared areas include 7.03 acres used for agriculture and 0.25 acres of impervious surfaces. A 3.92 acre area of natural vegetation and pine barrens habitat presently exists on the west side of the site. See Exhibit B for photographs of the site. The Applicant proposes to clear all but 0.5 acre of this area. See Exhibit C for the site map and clearing.

## APPLICANT REQUEST AND CENTRAL PINE BARRENS STATUS

The Applicant seeks to clear 30% of the parcel requiring relief from conformance with the Comprehensive Land Use Plan (the Plan standards for Vegetation Clearance Limits (5.3.3.6.1). The Applicant proposes to clear an additional 30% or 3.36 acres of the site, which is in excess of the 65% standard. The final proposed clearing limit is 95% or a total cleared area of 10.39 acres. A naturally vegetated buffer of 5% or 0.56 acre would remain on the west side adjacent to a residential community.

Additionally, the project may not conform with the Plan's Fertilizer-dependent vegetation limit standard (5.3.3.6.4). The applicant needs to identify the area and percentage of fertilizer dependent vegetation and request a waiver if it exceeds the standard.

The site was in a non-residential zoning district, Business CR (Rural Neighborhood Business), when the Comprehensive Land Use Plan was adopted in 1995 which is the zoning used to determine the clearing limit in Figure 5-1 of the Plan. The property is currently in the Residence B 80 Zoning District. Permitted uses include agriculture and single-family residential land uses. See Exhibit D for the Zoning Code for Business CR and RB 80 and dimensional regulations.

In 2013, the applicant inquired with the Commission office about clearing the subject property to the limit of 95%. A response was provided concerning development activity and the hardship requirement. See Exhibit E for the 2013 letter and response.

### Long Island Pine Barrens Protection Act of 1993

The proposed activity constitutes development pursuant to the definitions in New York State Environmental Conservation Law (ECL) Article 57 Section 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;"*

Development activity that does not conform to one or more standards of the Plan may either be revised to conform or the applicant must seek relief from the Commission by submitting a hardship waiver application for review and consideration.

## SEQRA AND OTHER REQUIRED PERMITS AND APPROVALS

- SEQRA: Unlisted Action Unlisted Action or Type I if the substantially contiguous publicly owned County land is "parkland, recreation area or designated open space." Coordinated review for Lead Agency. No other agency requested Lead Agency.
- New York State Office of Parks, Recreation and Historic Preservation

- New York State Department of Environmental Conservation
- Central Pine Barrens Commission Compatible Growth Area Hardship Waiver
- Town of Riverhead clearing permit

## SITE DESCRIPTION

The western portion of the site has remained largely intact as far back as 1947. Aerials on the Suffolk County GIS viewer, <https://gisapps.suffolkcountyny.gov/gisviewer/>, show this area remaining wooded over time and the eastern portion farmed.

This section contains a general description of the environmental features and resources on the Project Site. Some information was provided in the Applicant's Environmental Assessment Form.

*Existing Condition and Land Use on-site:* The site is cleared to its limit of 65% and used for agricultural uses. The area is a pasture for cattle grazing. Approximately 25% of the site contains impervious surfaces associated with the farmstand business. The remaining area, 35% or 3.36 acres, on the west side of the site is naturally vegetated.

*Vegetation and Wildlife:* A pitch pine-oak-heath woodland ecological community exists in the natural area. Large oak trees in a variety of species including white oak and pitch pine trees are present as well as other flowering trees including cherry and an understory of native shrubs including bayberry, blueberry and natural groundcover. Avian wildlife including songbirds are present in the area.

*Rare, Endangered, & Threatened Species and Species of Concern:* Response pending from the New York Natural Heritage Program. The area is expected to contain habitat for the Northern Long-eared Bat, a State and Federally listed Threatened species. Coordinate with NYSDEC on the habitat protection requirements and clearing windows.

The New York State Breeding Bird Atlas list contains 81 species including 40 confirmed breeding in the survey block, 6753D, covering the Project Site (note: survey block is a 3 x 3 mi). Six species of special concern were identified including: Cooper's Hawk, Whip-poor-will, red headed woodpecker, horned lark, vesper sparrow and grasshopper sparrow.

*Wetlands:* Approximately 600 feet and 1,600 feet to the north of the site are two mapped and regulated Class 1 coastal plain pond wetland habitats including:

- Tarkill Trail pond, 1.5 acre coastal plain pond freshwater wetland
- Corey Pond, 4.7 acre coastal plain pond freshwater wetland

See Exhibit F for the nearby coastal plain pond wetland habitats. [Environmental Resource Mapper \(ny.gov\)](https://www.dec.ny.gov/lands/10000/erMapper.html)

*Hydrology:* The estimated depth to water below surface is 28 feet.

*Topography/Elevation:* The Project Site is generally flat.

*Soils* (source: USDA Natural Resources Conservation Service):

- CpA Carver and Plymouth soils, 0 to 3 percent slopes (1/3 of the site)

**DRAFT**

- PIA Plymouth loamy coarse sand, 0 to 3 percent slopes (1/3 of the site)
- RdA Riverhead sandy loam, 0 to 3 percent slopes (1/3 of the site)

*Suffolk County Agricultural District:* The project site is not in the Agricultural District.

Parcels in the Study Area that are in the 7<sup>th</sup> Agricultural District and appear to be owned by the Finks include a 19 acre parcel identified as SCTM # 600-134-1-8.4, which is northeast of the site. See Exhibit G for a map of parcels in the Ag District.

The Finks may also lease for agricultural use a 10.4 acre parcel in the Ag District north of the project site, identified as SCTM # 600-115-1-4.3, listed as DiPierro PDR.

*Suffolk County Purchase of Development Rights (PDR) Program:* Three parcels in the Study Area are in Suffolk County's PDR program (acquired development rights) including SCTM #s: 600-115-1-4.3, 600-115-1-9 and 600-134-1-8.4. See Exhibit H for a map of the PDR parcels.

The Fink's own or lease a 21.92 acre parcel in the vicinity, SCTM # 600-115-1-9, on the northeast corner of Route 25 and Wading River Manorville Road. The property was the subject of a CGA Hardship Waiver granted in 2017 to Finks/Shwonik/Guyder. The hardship request was to clear 95%. The Finks leased the property at the time. Suffolk County acquired the development rights after the waiver was granted, and it is now in the County's PDR Program.

The Fink's own a 17 acre parcel identified as SCTM # 600-115-1-5 in the vicinity of the project site. The property is entirely wooded with pine barrens vegetation except for a single-family residence in the northeast corner of the property. In January 2021, Michelle Fink inquired with the Commission office about undertaking a proposal including potential development activity for this property because she was in contract to purchase it. See Exhibit I for the 2021 email and response letter regarding this property.

*FEMA Flood Hazard Zones:* The Project Site is not within a flood zone.

*Cultural/Archeological Resources:* By letter dated May 20, 2022, the New York State Historic Preservation Office stated, "It is OPRHP's opinion that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project."

## Surrounding Land Use and Zoning

The Study Area is defined as a one-half mile radius around the Project Site. See Exhibit J for a map with an aerial depicting the Study Area.



The Study Area is roughly bounded on its north side by farmland, Wading River Manorville Road on the east side, public open space south of Route 25 and a residential community around Lake Panamoka on its west side. Middle Country Road is the boundary of the Core and CGA. North of the Route 25 boundary is the CGA and the Core is to the south.

The immediate boundaries of the site include Middle County Road is on the south side of the site, Suffolk County property to the north, the applicant's property to the east including the farmstand, parking lot and related structures. The easterly adjacent property identified as SCTM # 600-134-1-8.2 is listed as owned by Kathryn Gentile that is developed and occupied by the Fink's Farm operation.

#### North of the Project Site

Lake Panamoka, a 45-acre freshwater lake, is situated to the north and west of the Project Site. Protected open space and other significant freshwater wetlands exist in this portion of the Study Area including two NYSDEC Class 1 wetlands, Corey Pond, 4.7 acres and Cranberry Pond, 15 acres.

#### East of the Project Site

A commercial trailer sales company and residential subdivision are situated in the eastern portion of the Study Area.

The Shwonik/Guyder CGA Hardship Waiver granted on June 21, 2017 is on the east side of the Study Area. The applicant was granted a waiver to clear natural vegetation to a limit of 95% on 21 acres for agriculture where 53% was permitted. At the hearing for the hardship exemption, the person seeking the exemption established that the property had been previously cleared and used for agriculture in the 1980s.

#### South of the Project Site

Open space is abundant south of Middle Country Road, in the Core Preservation Area including Approximately 1,042 acres of public land owned by Suffolk County, New York State and the Town of Riverhead. Robert Cushman Murphy County Park is a significant area of open space in the Study Area.

The Peconic River watershed and headwaters lie to the south. A corridor of coastal plain ponds in Robert Cushman Murphy County Park, south of Middle Country Road and west of Schultz Road, includes those named Horn Pond, Round Pond, Peasys Pond, Woodchoppers Pond, Duck Pond, Sandy Pond, Grassy Pond and Twin Pond.

The ponds are within the coastal area boundary as mapped by New York State and described by New York State as a Significant Coastal Fish and Wildlife Habitat for Peconic River. The coastal boundary area extends south and east beyond the Study Area. It spans approximately 3.5 miles from Middle Country Road to the Long Island Expressway. See Exhibit K for a copy of the maps and narrative of this significant ecosystem.

#### Zoning

Low-density residential zoning districts are present in the Study Area including Residence B-80 (RB80), Natural Resource Protection (NRP) and Open Space Conservation (OSC) Districts.

**COMPREHENSIVE LAND USE PLAN STANDARDS**

Development activity in the CGA must conform with the Standards for land use outlined in Chapter 5 of the Plan. The Applicant listed 'N/A' for all standards except for Vegetation Clearance Limits which stated, "currently at." This is the staff's review of the standards interpreted from the application. See Exhibit L for the applicant's review of Standards.

Standards		Explanation and Document Page Reference (attach additional sheets if necessary)
S 5.3.3.1.1	Suffolk County Sanitary Code Article 6 compliance	Applicant response N/A
S 5.3.3.1.2	Sewage treatment plant discharge	Applicant response N/A
S 5.3.3.2.1	Suffolk County Sanitary Code Articles 7 & 12 compliance	Applicant response N/A
S 5.3.3.3.1	Significant discharges and public supply well locations	Applicant response N/A
S 5.3.3.4.1	Nondisturbance buffers	Applicant response N/A
S 5.3.3.4.2	Buffer delineations, covenants and conservation easements	A 0.5 acre natural buffer is proposed on west side of the site.
S 5.3.3.4.3	Wild, Scenic and Recreational Rivers Act compliance	Applicant response N/A
S 5.3.3.5.1	Stormwater recharge	Applicant responded 'N/A'.
S 5.3.3.6.1	Vegetation Clearance Limits	95% clearing limit where 65% is cleared and allowed as per the standard.
S 5.3.3.6.2	Unfragmented open space	Only 5% of the site will remain limiting the open space opportunity.
S 5.3.3.6.3	Fertilizer-dependent vegetation limit	Applicant response N/A
S 5.3.3.6.4	Native Plantings	Applicant response N/A
S 5.3.3.7.1	Special species and ecological communities	Application material sent to Natural Heritage Program, awaiting response.
S 5.3.3.9.1	Receiving entity for open space dedications	Applicant response N/A
S 5.3.3.12.1	Commercial and industrial compliance with Suffolk County Sanitary Code	Applicant response N/A

Project Site clearing data

Project Site	Area (acres)	%
Area	11.12	100%
Amount of clearing allowed clearing per Standard 5.3.3.6.1	7.28	65%
existing cleared area	7.28	65%
existing natural area	3.92	35%
proposed additional clearing	3.36	30%
total proposed clearing	10.64	95%
area to remain natural	0.56	10%
amount of proposed clearing exceeding the standard	3.36	30%

## 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 M including the applicant's letter, Affidavit of David Fink, Affirmation of Nicholas C. Rigano, Esq., and the Fink Financial Report.

The applicant's financial analysis asserts that the 65% cleared area yields a yearly income of \$1,700. It continues that granting permission to clear 30% of the remaining natural area will yield \$27,000 or 16 times more income. Please explain this proportional analysis.

Other responses state that "the Applicant cannot realize a reasonable rate of return by farming due to the vegetation growing on the uncleared portion of the land and that this condition does not apply to the neighborhood." On the essential character, the applicant states they "seek to expand in the CGA and it is one of many farms that the applicant currently operates and that agriculture has been a "mainstay" in the pine barrens. Best Management Practices will be used and a buffer will be provided."

On the self created hardship criterion, the applicant states the "uncleared areas are native to the pine barrens and without clearing it the applicant cannot realize a reasonable rate of return."

### 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.”*

#### **SUMMARY/DISCUSSION ITEMS/ADDITIONAL INFORMATION REQUESTED**

1. No evaluation was submitted on the project's conformance with the Plan standards other than the limited response on the clearing limit. The demonstration of conformance is required by the applicant and the information needs to be provided for the Commission to review and consider as part of their decision making process.
2. Please identify the applicant's holdings including property ownership and leases in the Study Area including the project site?
3. Explain the financial analysis.
4. How will the project site be used, to grow crops, cattle grazing, other agriculture?
5. Identify whether the project conforms with the fertilizer-dependent vegetation limit of 15% and if not the project will require additional waivers.
6. Will a portion of the cleared area be used for parking and/or the farmstand?
7. Does the applicant plan to have the subject parcel placed in the Agricultural District?
8. Does the applicant propose to have the development rights of the subject property acquired by Suffolk County?
9. Provide information on the Fink's holdings in the Study Area including property leases and ownership.
10. Is additional sanitary flow proposed?
11. Are other projects planned on properties owned or leased by Finks?
12. In 2021, the applicant requested information and direction to develop the property identified as SCTM 600-115-1-5, approximately 17 acres of woodlands with one dwelling on the west side of Wading River Manorville Road. Please clarify plans for this property. Is a subdivision and agriculture and/or other activity proposed?
13. Do the Finks have controlling assets on the property on the east side of the farmstand identified as SCTM # 600-134-1-2.2, listed in the ownership of 390 Route 25 LTD?
14. Consult with NYSDEC on the protection requirements for the State and Federal listed Threatened species and habitat of the Northern Long-eared Bat.
15. Confirm with NYSDEC on jurisdictional requirements if one or more freshwater wetland habitats in the vicinity is documented to support the NYS listed Endangered Eastern tiger salamander.
16. Additional analyses may be necessary after the public hearing and/or receipt of any additional information. The hearing record may need to remain open to receive and review information if it is submitted by the applicant and to receive comments during the written comment period.

## HEARING EXHIBITS

- A. Project Site Location Map with aerial
- B. Photographs
- C. Site map and clearing
- D. 2013 letter and response
- E. Business CR and RB80 Zoning Code sections and dimensional regulations tables
- F. Wetland habitats in the vicinity
- G. Suffolk County Agricultural District map
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Finks Farm Compatible Growth Area Hardship Application  
6242 Middle Country Road, Wading River, Town of Riverhead  
Compatible Growth Area of the Central Pine Barrens  
Central Pine Barrens Commission Meeting of June 15, 2022

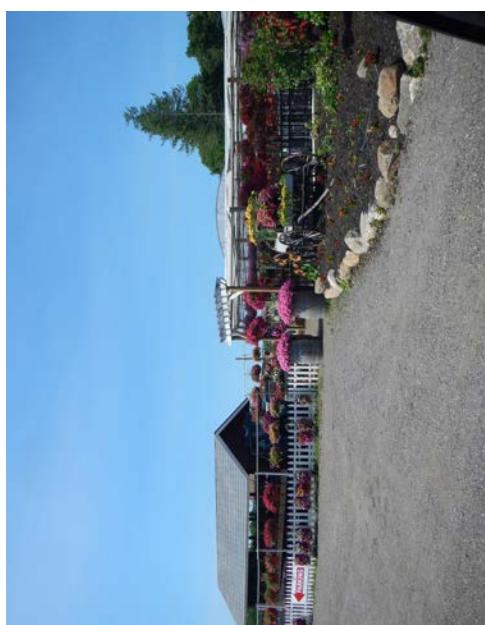


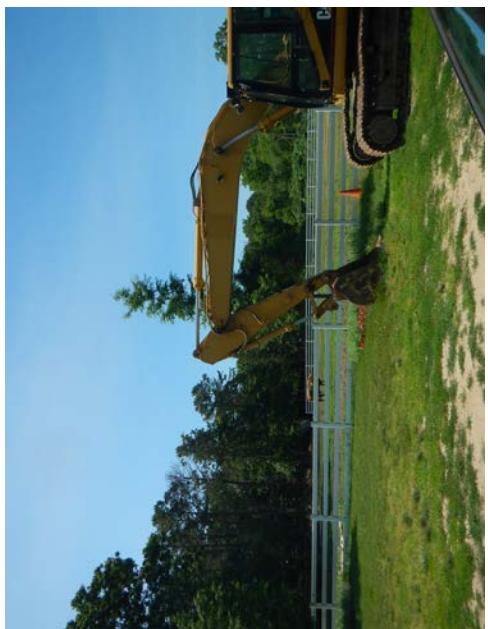
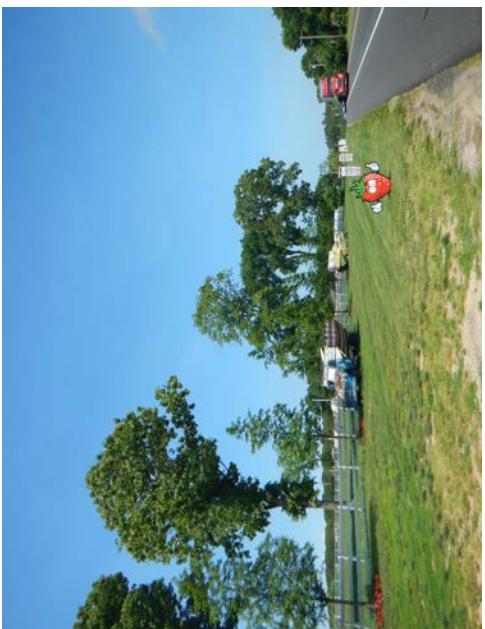
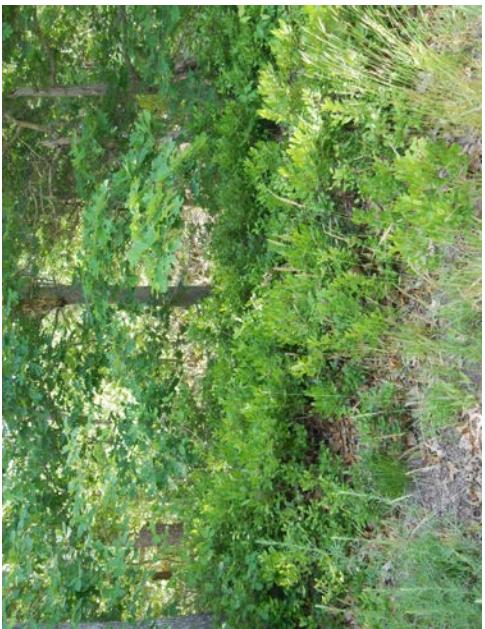
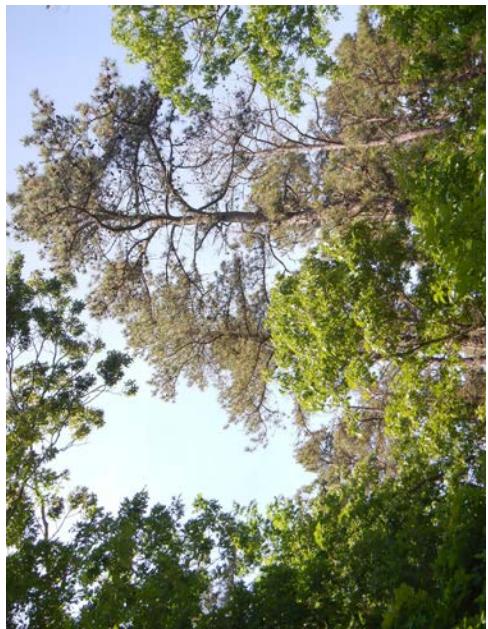
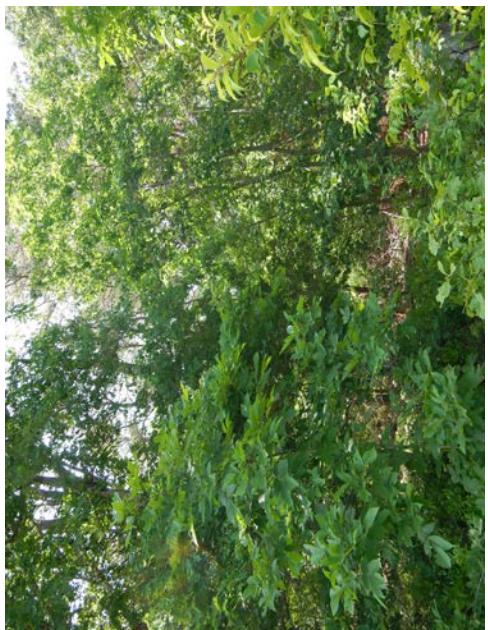
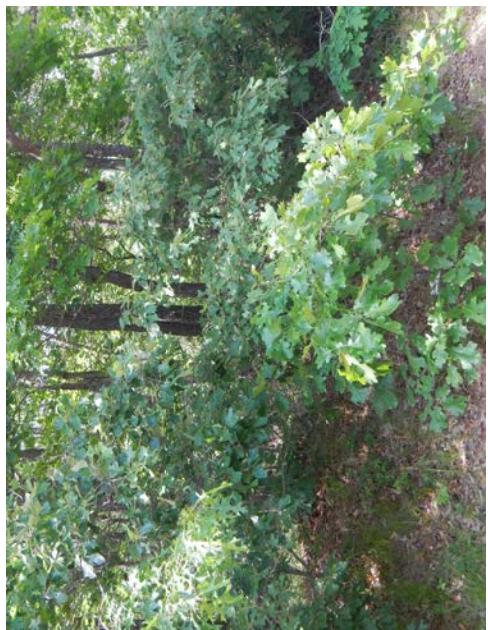
NYS ITS GIS Program Office

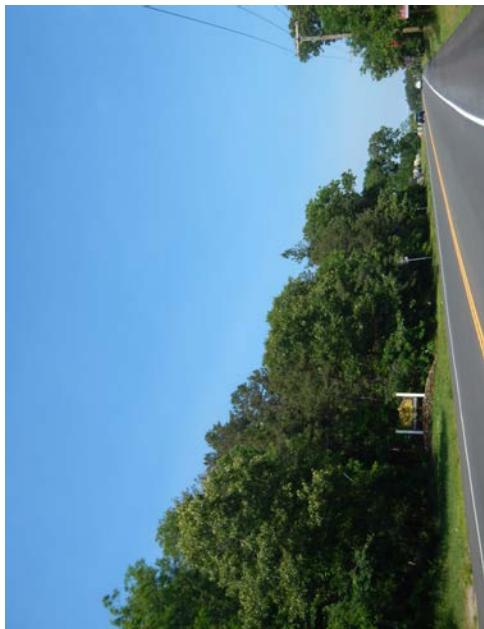
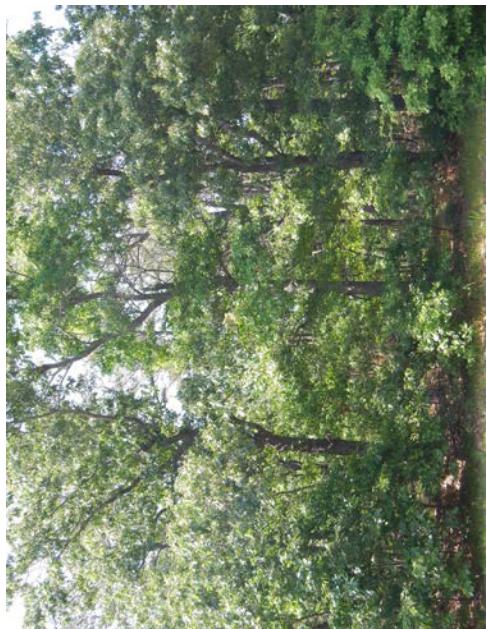
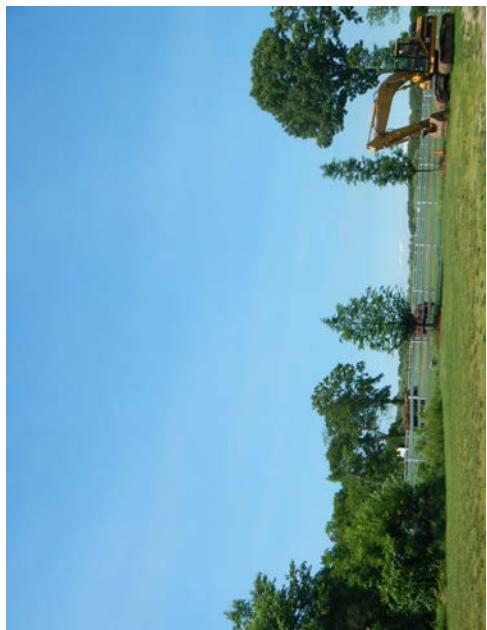
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Project Site

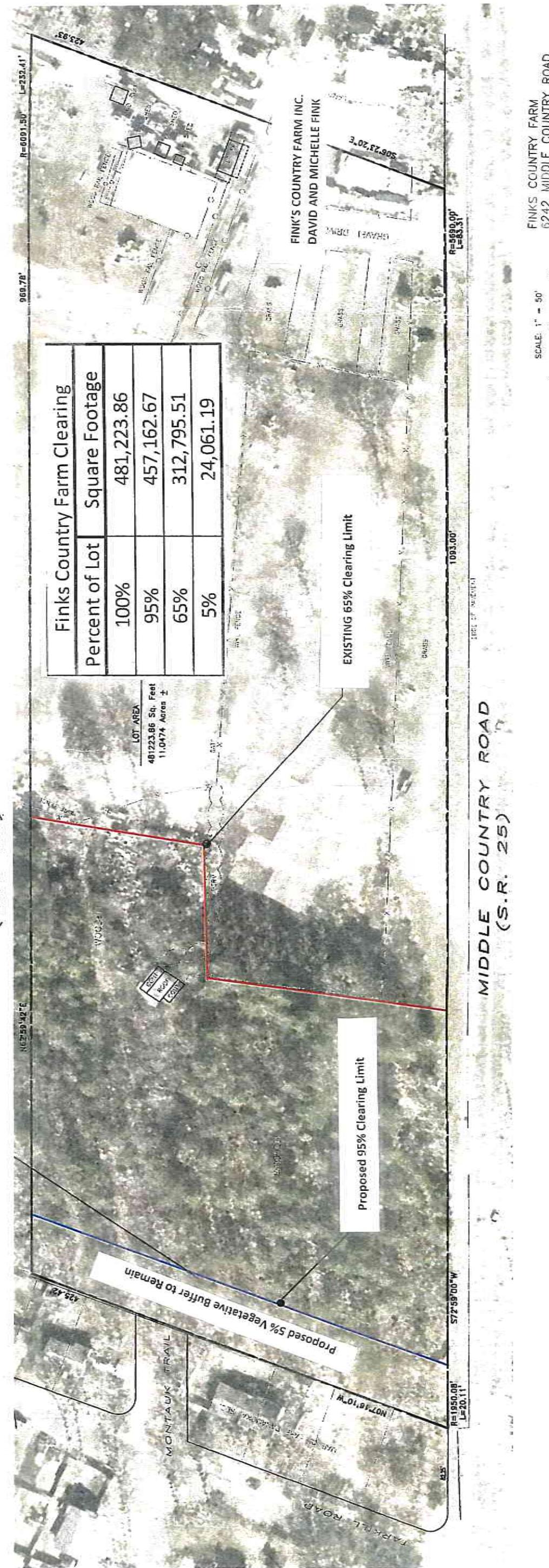
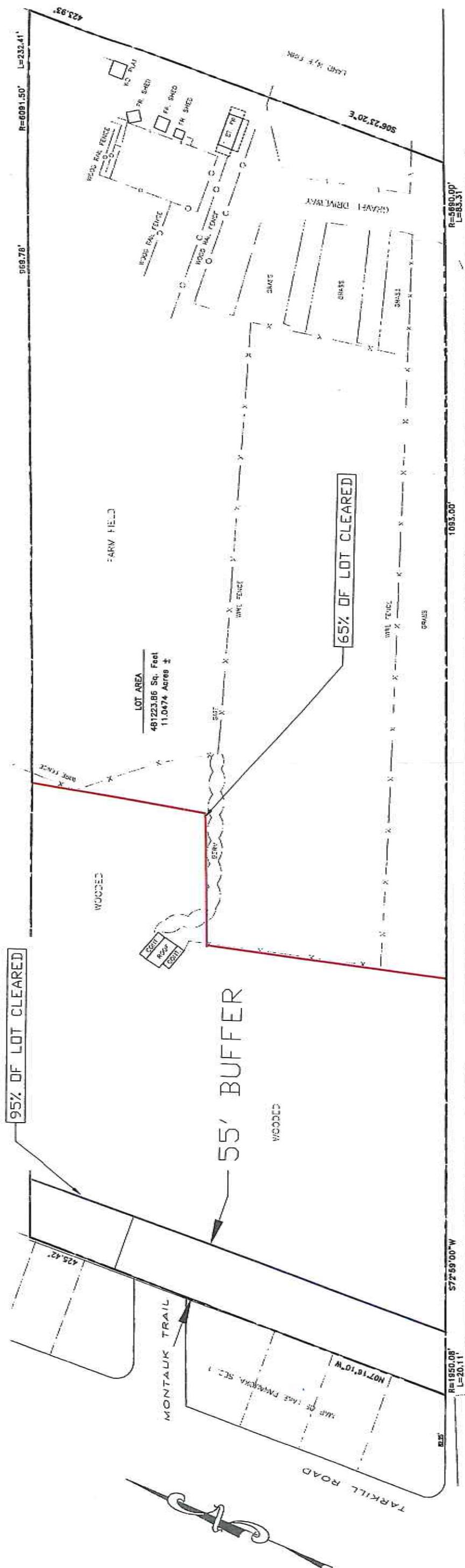
2020 aerial











December 16, 2013

Fink's Country Farm, Inc.  
6242 Middle Country Road  
Manorville, New York 11949  
631.886.2272

RE: County Tax Map # 600.134.01.1.3

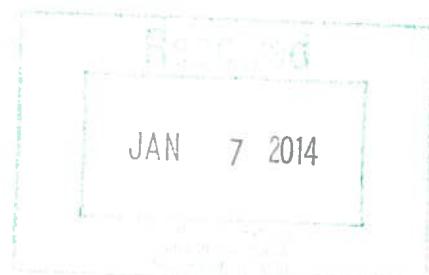
To whom it may concern:

We currently own a farm operation located in Wading River. We are third generation of famers of Riverhead town. Part of our family farm operation is conducted on an 11-acre parcel located in the Pine Barrens Compatible Growth Area. We are currently entering an option agreement to purchase the parcel. The land is approximately 35% cleared. To further enhance our growing agricultural business, we would like to clear up to 95% of the property. The land is and will continue to be used for agricultural and related purposes. Our ultimate plan is to farm the land and vegetate the front portion along Route 25 with a native pasture grass mix. The pasture property will be approximately three acres and will be maintained annually. We have enclosed a copy of the current survey showing our plans for the said property, as well as, photos of current vegetation. We will leave a 50-foot x 424-foot wood boundary line on the west-end of the property, along Tarkill Trail in Ridge. Drawings for this boundary line are also indicated on the survey. We are asking for a letter of non-jurisdiction or hardship from the Pine Barrens Commission in order to apply for the proper permits through Riverhead Town. Please advise us of our next step in moving forward. Our contact information is listed above and below.

Thank you,



David and Michelle Fink,  
Fink's Country Farm, Inc.  
631.445.2912 – David cell  
516.446.9438 – Michelle cell





January 13, 2014

Mr. and Mrs. David Fink  
Fink's Country Farm, Inc.  
6242 Middle Country Road  
Manorville, New York 11949

**Re: Proposal on SCTM #: 600-134-1-1.3  
Compatible Growth Area of the Central Pine Barrens**

Peter A. Scully  
*Chair*

Steven Bellone  
*Member*

Edward P. Romaine  
*Member*

Anna E. Throne-Holst  
*Member*

Sean M. Walter  
*Member*

Dear Mr. and Mrs. Fink:

On January 7, 2014, the Central Pine Barrens Commission office received your letter dated December 16, 2013 and Survey of Finks Country Farm, Inc. prepared by Young and Young dated May 20, 2013 regarding the above-referenced project site. The project site is located on the north side of Middle Country Road, east of Tarkill Road, in the Compatible Growth Area of the Central Pine Barrens, Town of Riverhead.

For your information, staff responded via email to an inquiry from Mr. David Fink on February 4, 2013. At that time, Mr. Fink requested on the Central Pine Barrens including the CGA Hardship Waiver application, Environmental Conservation Law Article 57 (the Long Island Pine Barrens Protection Act of 1993), and Central Pine Barrens Comprehensive Land Use Plan.

## Existing Conditions and Project Description

The property survey prepared by Young and Young dated May 20, 2013 lists the site area as 11.0205 acres. It illustrates areas handwritten as "crop production field" in the rear two-thirds of the site; "proposed pasture" on the N.Y.S. Route 25 road front to depth of roughly 200 feet, and a 50-foot wide "proposed wooded boundary" on the west side for a length of 424.69 feet. The wood boundary is described in your letter as being along the "Tarkill Trail in Ridge."

624 Old Riverhead Road  
Westhampton Beach, NY  
11978

Phone (631) 288-1079  
Fax (631) 288-1367  
[www.pb.state.ny.us](http://www.pb.state.ny.us)

The property is adjacent on its west side to a residential community. To the north, lies approximately 56.6 acres of land partially under agricultural production and partially wooded; it is listed as owned by "County of Suffolk" on the 2013 tax map, SCTM #: 600-134-1-1.4. To the northeast lies roughly 19.4 acres of land under agricultural production listed as "County of Suffolk Development Rights" on the 2013 tax map, SCTM #: 600-134-1-8.4. To the east on the Route 25 road front is the operation of Finks Farmstand, SCTM #: 600-134-1-8.2 and 2.2, totaling approximately 4.2 acres.

Your letter states the project site is approximately 35% cleared, which is approximately 3.86 acres. The property is largely wooded with existing natural pine barrens vegetation and habitat including but not limited to pitch pine, oak, eastern red cedar, black locust, natural groundcover, other trees, shrubs and natural vegetation.

Your letter states that you currently own a farm operation in Wading River and part of the family farm is conducted on an 11 acre parcel in the CGA. It is stated, "We are currently entering an option agreement to purchase the parcel."

According to your letter, "To further enhance our growing agricultural business, we would like to clear up to 95% of the property...for agricultural and related purposes." As a result, 95% or approximately 10.47 acres of the project site would be cleared.

### **Central Pine Barrens Status**

The proposed activity constitutes development pursuant to one or more of the definitions enumerated in New York State Environmental Conservation Law (ECL) Article 57-0107(13), including, but not limited to:

- (a) a change in type of use of a structure or land or, if the ordinance or rule divides uses into classes, a change from one class of use designated in an ordinance or rule to a use in another class so designated;
- (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 project must conform to the provisions of the Town Zoning Code implementing the Central Pine Barrens Comprehensive Land Use Plan (CLUP). If the application does not comply with these provisions, then the applicant must revise the application to comply or submit a CGA Hardship Waiver application to the Commission, subject to review and approval, prior to commencement of disturbance activity as it relates to the proposal.

Enclosed for your use are copies of CLUP *Chapter 4 Review Procedures and Jurisdiction* and *Chapter 5 Standards and Guidelines for Land Use*. The provisions of ECL Article 57 and the Standards and Guidelines were incorporated into the Town Zoning Code to streamline the review process for development projects in the CGA.

One of the Standards to which a development project must conform is the *Vegetation Clearance Limit* (5.3.3.6.1). The clearing limit for a project site is applied based on the zoning district in which the project site is located. The survey does not list the zoning district in which the site is located. Figure 5-1 of Chapter 5 lists different clearing limits based on different zoning categories (e.g., residential categories, commercial/industrial categories). For example, the two acre residential zoning district permits a maximum of 35% clearing, and a maximum of 65% is permitted in commercial districts, regardless of land use. If the project site is split zoned, the amount in each different district must be

calculated and the sum of the clearing permitted in each district is the clearing limit. Please provide these data at your convenience.

Another Standard to which a project must conform is the *Fertilizer-dependent Vegetation Limit* (5.3.3.6.3), which is a maximum of 15% for the project site. No information was submitted to determine whether or not this Standard is met or will be met on the subject property.

Other Standards to which a project must conform include, but are not limited to, *Nondisturbance Buffers* (5.3.3.4.1), *Unfragmented Open Space* (5.3.3.6.2), and *Special Species and Ecological Communities* (5.3.3.7.1), which requires buffers to protect wetland habitat, minimizes fragmentation of open space in a pattern that ensures habitat protection, and protects rare and endangered species and species of special concern, respectively.

It is important to note, two freshwater wetlands known as Corey Pond and Cranberry Pond exist to the north in proximity to the project site. The CLUP contains Standards for wetland protection, therefore, the proposal must demonstrate conformance with all applicable standards.

For your use and review in the event the proposal does not conform to the CLUP, enclosed please find a copy of the CGA Hardship Waiver application package. For more information on the Central Pine Barrens, the Commission, the application process, past land use decisions, and related information, please visit the Commission's website at: [www.pb.state.ny.us](http://www.pb.state.ny.us).

The proposal must conform to all other involved agency jurisdictions and permit requirements in effect on the project site. Thank you for your attention, and if you have any questions on this matter or any other related to the Central Pine Barrens, please contact me at (631) 218-1192.

Sincerely,



Julie Hargrave

Senior Environmental Planner

Encl.

cc: John Pavacic, Executive Director, CPBJP&P Commission  
Judy Jakobsen, Policy and Planning Manager, CPBJP&P Commission  
John Milazzo, Counsel to the CPBJP&P Commission

## Town of Riverhead

**Commercial Districts Schedule of Dimensional Regulations**  
**[Added 10-5-2004; amended 10-12-2004; 10-21-2004; 11-3-2004; 11-16-2004; 12-29-2004 by L.L. No. 57-2004; 8-2-2005 by L.L. No. 44-2005;  
 9-6-2006 by L.L. No. 35-2006; 3-15-2011 by L.L. No. 7-2011; 6-7-2016 by L.L. No. 18-2016; 12-4-2018 by L.L. No. 24-2018]**

Zoning Use District	Minimum Lot Area (square feet)	Minimum Lot Width at Front Street (feet)	Building Lot Coverage (Footprint)	Maximum With Transfer of Development Rights	Maximum Impervious Surface	Maximum Height of Buildings (feet)	Floor Area Ratio (FAR)			Side Yards, Corner Lots	Side Yards, Interior Lots	Minimum Front Yard Depth (feet)	Minimum Rear Yard Depth (feet)
							Maximum Without Sewer	Maximum With Sewer	Maximum With Transfer of Development Rights				
Downtown Center 1: Main Street (DC-1)	5,000	50	N/A	80% <sup>(N12)</sup>	N/A	100%	60 <sup>(N10N2)</sup>	N/A	4.00 <sup>(N13)</sup>	N/A	0	0	0
Downtown Center 2: Waterfront (DC-2)	5,000	50	N/A	35%	N/A	50%	35	N/A	1.25	N/A	15	30	30
Downtown Center 3: Office (DC-3)	5,000	50	N/A	50% <sup>(N12)</sup>	N/A	80%	35	N/A	1.50 <sup>(N13)</sup>	N/A	10	20	20
Downtown Center 4: Office/Residential Transition (DC-4)	5,000	50	N/A	35%	N/A	60%	35	N/A	1.00	N/A	10	20	25
Downtown Center 5: Residential (DC-5)	5,000	50	N/A	35%	N/A	60%	35	N/A	0.70	N/A	10	20	25
Hamlet Center (HC)	5,000	50	35%	35%	N/A	60%	35	0.50	0.50	N/A	25	30	25
Village Center (VC)	5,000	50	80%	80%	N/A	100%	35	1.00	1.00	N/A	10	0	20
Business Center (BC)	20,000	100	15%	20%	30%	75%	35 <sup>(N6)</sup>	0.15	0.20	0.30	50 <sup>(N4)</sup>	15	30
Shopping Center (SC)	40,000	200	15%	20%	30%	75%	35	0.15	0.20	0.30	50 <sup>(N4)</sup>	25	50
Destination Retail Center (DRC)	40,000	200	10%	15%	30%	75%	35 <sup>(N6)</sup>	0.10	0.20	0.30	50 <sup>(N5)</sup>	25	50
Commercial/Residential Campus (CRC) <sup>(N7)(N8)(N11)</sup>	40,000	200	20%	25%	N/A	60%	35	0.20	0.50	N/A	30	15	30
Riverfront Corridor (RFC)	80,000	200	8%	N/A	25%	35 <sup>(N10)</sup>	0.15	N/A	100	30	60	100	130
Rural Corridor (RLC)	40,000	200	10%	10%	N/A	25%	35	0.10 <sup>(N9)</sup>	N/A	50	50	100	50
Business (PB)	40,000	50	N/A	30%	N/A	80%	35	N/A	1.50	N/A	15	30	65
Business (CR)	40,000	200	15%	15%	N/A	75%	35	0.20	0.20	N/A	30	25	60
Tourism/Resort Campus (TRC)	80,000	200	8%	N/A	25%	35 <sup>(N10)</sup>	0.15	N/A	N/A	100	30	60	130
Industrial A (Ind A)	80,000	200	40%	40%	N/A	70%	30	0.40	0.40	N/A	100	50	100
Industrial C (Ind C)	80,000	300	40%	40%	N/A	60%	30	0.40	0.40	N/A	30	60	60
Manufacturers Outlet Center	120,000	200	10%	20%	30%	75%	35 <sup>(N6)</sup>	0.10	0.20	0.30	50 <sup>(N5)</sup>	25	50
Peconic River Community (PRC)	80,000	200	20%	30%	N/A	40%	34	0.40	0.60	N/A	25	15	30
Planned Industrial Park (PIP) District													
Planned Recreational Park (PRP) District													

See § 301-186

See § 301-191C

**NOTES:**

N<sub>1</sub> Maximum height for townhouse uses shall be 35 feet.  
N<sub>2</sub> Not to exceed five stories.  
N<sub>3</sub> Front porches may extend up to five feet into the front yard, provided that they are at least five feet back from the front property line.  
N<sub>4</sub> Thirty-five feet of the front yard in the BC and SC Zoning Use Districts shall remain unoccupied as landscaped area, with the exception of freestanding signs and access driveways.  
N<sub>5</sub> Fifty feet of the front yard in the DRC Zoning Use District and Manufacturers Outlet Center shall remain unoccupied as landscaped area, with the exception of freestanding signs and access driveways.  
N<sub>6</sub> Preservation credits may be used to increase the height to 50 feet.  
N<sub>7</sub> The minimum floor area of a townhouse shall be 900 square feet.

N<sub>8</sub> Two-family residences shall require a lot of 40,000 square feet and shall employ the use of one preservation credit for the second dwelling unit.  
N<sub>9</sub> The floor area ratio (FAR) for retail stores or shops shall be calculated utilizing the frontage along the major arterial highway to a depth of no more than 500 linear feet.  
N<sub>10</sub> Not to exceed two stories.  
N<sub>11</sub> Residential yields shall be calculated at one dwelling unit per 40,000 square feet of lot area, with the capacity to meet the relevant floor area ratio predicated upon the redemption of one transferred development right per additional dwelling unit.  
N<sub>12</sub> Building lot coverage for a townhouse use shall not exceed 7.5%.  
N<sub>13</sub> Floor area ratio for a townhouse use shall not exceed 0.15.

## Chapter 301. Zoning and Land Development

### Part 2. Districts

#### Article XIX. Business CR (BUS CR) Zoning Use District (Rural Neighborhood Business)

[Added 10-21-2004 by L.L. No. 44-2004]

##### § 301-95. Purpose and intent.

The intent of the Business CR Zoning Use District is to allow for the development of small clusters of shops, including eating and drinking establishments and professional offices, geared primarily toward providing daily services to residents in the adjacent residential areas. The scale and design of new development in this district are intended to complement the rural character of the Town and preserve and enhance natural open space areas and habitat. Where lot sizes and depths permit, development is intended to be clustered in a campus-style pattern.

##### § 301-96. Uses.

In the Business CR Zoning Use District, no building, structure, or premises shall be used or arranged or designed to be used, and no building or structure shall be hereafter erected, reconstructed, or altered, unless otherwise provided in this chapter, except for the following permitted uses or specially permitted uses and their customary accessory uses:

A. Permitted uses:

- (1) Retail stores.
- (2) Specialty food stores, wine shops and bakeries with retail sales on premises.
- (3) Personal services.
- (4) Restaurants, cafes, and ice cream parlors.
- (5) Professional offices.
- (6) Professional studios and performing arts studios.
- (7) Public libraries.
- (8) Museums.
- (9) Schools.
- (10) Banks.

[Added 8-19-2008 by L.L. No. 30-2008]

B. Special permit uses:

- (1) Bed-and-breakfast establishments.
- (2) Day-care centers or nursery schools.
- (3) Country inns.

C. Accessory uses. Accessory uses shall include those uses customarily incidental to any of the above permitted uses or specially permitted uses when located on the same lot. Specifically included are the following:  
[Amended 7-6-2005 by L.L. No. 17-2005]

- (1) Drive-through windows for pharmacies and banks.

D. Prohibited uses:

- (1) Buildings with a floor area exceeding 10,000 square feet.  
[Amended 10-2-2012 by L.L. No. 25-2012]
- (2) Drive-through windows serving restaurants.  
[Amended 7-6-2005 by L.L. No. 17-2005]
- (3) Car washes.
- (4) An automobile sales lot; motor vehicle sales room; public or private garage; or storage warehouse or wholesale establishment.
- (5) Any vending machine or amusement device located outside of any structure. This prohibition does not apply to electronic funds transfer facility substations.
- (6) Any display, storage or sale of goods, wares or merchandise outside of any structure in any area other than that indicated for such outdoor display, storage or sale on an approved site plan. Such display, storage or sale areas shall not encroach on any landscaped areas, parking areas or areas intended for customer access.
- (7) Flea markets.
- (8) Rolling or sliding security-type grilles and doors.

## § 301-97. Lot, yard, bulk and height requirements.

No buildings shall be erected nor any lot or land area utilized unless in conformity with the Zoning Schedule<sup>[1]</sup> incorporated into this chapter by reference and made a part hereof with the same force and effect as if such requirements were herein set forth in full as specified in said schedule, except as may be hereafter specifically modified.

[1] *Editor's Note: The Zoning Schedule is included as an attachment to this chapter.*

## § 301-98. Supplementary guidelines.

[Amended 5-5-2009 by L.L. No. 20-2009]

The design standards and parking standards listed in the provisions below (Subsections A and B of this section) are intended as a guide or measure for improvements in parcels in this zoning district, and the word "shall" recited in the provisions below, with the exception of Subsection B(1) which requires adherence to the Parking Schedule, is intended to obtain compliance with the provisions to the extent practicable as determined by the Board responsible for review.

A. Design standards.

- (1) For all parcels three acres or greater in area, the proposed floor area shall be distributed into a minimum of four buildings.
- (2) For all parcels, the front yard shall be landscaped, except for areas devoted to walkways and an optional limited amount of parking. Parking is allowed in the front yard only as follows:
  - (a) No more than 20% of the parking supply may be provided in front and street-facing side yards combined; see Subsection B(4) below for more information.
  - (b) Only one row of parking is allowed in front yards, with a paved area not to exceed 40 feet in depth, measured perpendicular to the front street.
  - (c) To mitigate the appearance of any parking in the front yards, any front yard parking areas shall be set back at least 30 feet within landscaped front yards.

- (3) For corner parcels, the street-facing side yard shall be landscaped, except for areas devoted to walkways and an optional limited amount of parking. Parking is allowed in street-facing side yards only as follows:
  - (a) No more than 20% of the parking supply may be provided in front and street-facing side yards combined; see Subsection **B(4)** below for more information.
  - (b) Only one row of parking is allowed in street-facing side yards, with a paved area not to exceed 40 feet in depth, measured perpendicular to the side street.
  - (c) To mitigate the appearance of any parking in street-facing side yards, parking areas shall be set back at least 15 feet within landscaped side yards.
- (4) The central organizing element for buildings in the Business CR Zoning Use District shall be one or more "central squares," such as greens, plazas, or courtyards.
  - (a) Such central squares shall open towards, and be visible from, front streets and any adjoining side streets.
  - (b) Such central squares shall measure at least 30 feet by 50 feet.
  - (c) The open space(s) provided by central squares shall be outside of and in addition to the required front and side yards.
  - (d) Central squares shall include landscaping, plantings, decorative pavers, seating, outdoor eating areas, shade elements, and other features so as to create attractive public spaces that serve as amenities for shoppers and nearby residents.
- (5) No structures are allowed within front, side, or rear yards.
- (6) Buildings shall be arranged along one, two, or three sides of the central squares, and their main entries shall face these spaces.
- (7) Secondary building entries may be provided from rear parking areas; however, such entries shall not remove the need for a front entrance facing the central square.
- (8) In no case shall the rear of buildings face a public street, and in no case shall the front of a building face a rear service access road or a side driveway.
- (9) The provision of improved cross access shall be provided between those parcels located on the south side of NYS Route 25A between the westerly Town boundary and Wading River Manorville Road.  
[Amended 10-2-2012 by L.L. No. 25-2012]
- (10) Building design and landscaping shall serve to reinforce and announce the main pedestrian building entrances.
- (11) Development shall provide walkways for safe and convenient pedestrian access to storefront entries from all parking areas and public sidewalks and, where possible, to link storefronts to adjacent residential areas.
- (12) Building placement shall, wherever possible, minimize walking distances from rear parking areas to front building entries; for example, by breaking large buildings into smaller units of less than 200 feet in width, interspersed with walkways.
  - (a) Breaks between buildings where automobile access is not necessary shall provide for safe and attractive pedestrian walkways and shall be at least 15 feet wide.
  - (b) Breaks between buildings where automobile or truck access is necessary (such as to rear parking lot access roads or driveways) shall provide a combined roadway and sidewalk of at least 30 feet in width, including one eight-foot-wide sidewalk.
- (13) Facades of commercial buildings that face streets, central squares, or pedestrian walkways shall be broken up into bays of no more than 30 feet in width, through use of variations in facade plane, piers, or other architectural features.
- (14) At least 50% of the linear width of facades facing streets or pedestrian pathways shall be comprised of transparent windows. Where shade is desired, awnings are encouraged. Windows may not be obscured more than 20% by opaque banners, or either permanent or temporary advertisements or signs. In no case shall blank walls face a public street.
- (15) The exteriors of buildings in the Business CR District shall utilize natural cladding materials such as wood, brick, stucco, stone or a combination of such materials. The use of synthetic, metallic, and reflective

materials should be avoided.

(16) Signs shall be provided in accordance with Article **XLVIII**, Signs, of this chapter. Signs for commercial uses within shopping centers shall be a uniform design to the greatest extent practicable.  
[Amended 10-2-2012 by L.L. No. 25-2012]

(17) Buffering and transitions.

- (a) Trash/dumpster areas shall be screened by wood fences or landscaping, or a combination thereof, pursuant to § **245-8**.
- (b) Front yards, street-facing side yards, and rear yards shall be landscaped or maintained as natural open space. To the extent possible, existing woodlands, stands of or individual trees, and other unique, indigenous, or significant vegetation within such setbacks should be protected.
- (c) Buffer landscaping shall be provided between commercial uses and adjoining residential uses or zones. Such plantings shall include canopy trees and evergreens that may reach a mature height of not less than the commercial structures, and planted in sufficient quantity to screen views of the commercial structures from residential areas. However, buffer landscaping shall not interfere with the potential for pedestrian access from residential areas to the commercial businesses.

B. Parking standards.

- (1) The number of off-street parking spaces in the Business CR Zoning Use District shall be provided in accordance with § **301-231**, Off-street parking, of this chapter.
- (2) Where credible evidence is provided by traffic counts or data by a licensed traffic engineer, up to 20% reduction in off-street parking may be permitted for shared parking, where the peak parking of two or more uses occurs at different times.
- (3) Parking requirements may be reduced with payment of a fee or land dedication in lieu of providing off-street parking as provided for in § **301-231**.
- (4) No more than 20% of the required parking supply may be provided in front and street-facing side yards. Any parking in front or street-facing side yards shall be sited within the rear portion of said yard, behind landscaping. The remaining 80% or more of the parking supply shall be sited to the rear or side of buildings, adjacent to interior lot lines or access driveways, and away from front and side street frontages.
- (5) Curb cuts shall be limited to one curb cut every 400 linear feet on public front and side streets. Driveway entrances to adjacent parking lots shall be shared and consolidated.
- (6) Shared parking lots with cross-access agreements are encouraged so as to allow drivers to park in one lot and walk to other businesses without moving their cars, or to drive from one lot to another without returning to the street.
- (7) In order to soften the appearance of parking lots, parking lots shall be landscaped with ground cover, grasses, or low shrubs for at least 15% of their land area.
- (8) Parking lots with 21 or more spaces shall have "orchard" planting for shade: one tree per 10 off-street spaces. Such trees shall be spread throughout the parking lot, rather than clustered only along the edges.
- (9) In order to provide recharge of the groundwater basin and minimize runoff, at least one of the following stormwater management techniques shall be used in parking lots where underlying soils support infiltration of precipitation to the groundwater:
  - (a) Entire parking areas shall be surfaced with gravel, rather than pavement.
  - (b) Where sanding and salting are not used in the winter, low-traffic or seasonal parking overflow areas of the parking lot shall be surfaced with porous pavement or gravel.
  - (c) Landscaped areas of the parking lot shall be sited, planted, and graded in a manner to provide infiltration and detention of runoff from paved areas.
- (10) Large areas of surface parking shall be broken up by landscaped walkways connecting sidewalks and parking areas to business entrances, in order to create parking fields of no more than 250 spaces each.

C. Additional requirements.

- (1) Hours of operation of retail business establishments. As used herein, a "retail business establishment" shall mean and include a retail store or shop or other business establishment in which goods, wares,

foods, commodities, articles or products are sold at retail, except that a "retail business establishment" shall not be construed to include any business establishment licensed to sell alcoholic beverages at retail for on-premises consumption. No retail business establishment shall remain open for business during the five-hour period between 12:00 midnight and 5:00 a.m. Every retail business establishment shall be closed to the public during the aforementioned five-hour period, and business with the public therein is prohibited after the hour of 12:00 midnight and before the hour of 5:00 a.m. of every day.

## Town of Riverhead

**Residence Districts Schedule of Dimensional Regulations**  
**[Added 7-6-2004; amended 3-15-2005 by L.L. No. 5-2005; 8-1-2006 by L.L. No. 28-2006; 6-19-2012 by L.L. No. 9-2012<sup>1</sup>]**

Zoning Use District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Maximum Impervious Surface (%)	Maximum Height of Residential Buildings (feet)	Minimum Front Yard Depth (feet)	Minimum Either Side Yard Width (feet)	Minimum Both Side Yards, Total Width (feet)	Minimum Side Yard Abutting Side Street (feet)	Minimum Rear Yard Depth (feet)
Agricultural Protection (APZ) <sup>3</sup>	80,000	175	15%	35	60	30	65	60	75
Residence A-80 (RA80) <sup>3</sup>	80,000	175	15%	35	60	30	65	60	75
Residence A-40 (RA40):									
As-of-right subdivision	40,000	150	15%	35	50	25	55	50	60
Workforce housing option <sup>1</sup>	20,000	100	15%	35	40	10	25	40	40
Hamlet Residential (HR)	80,000	175	15%	35	60	30	65	60	75
Residence B-80 (RB80) <sup>3</sup>	80,000	175	15%	35	60	30	65	60	75
Residence B-40 (RB40)	40,000	150	15%	35	50	25	55	50	60
Retirement Community (RC):									
One-family dwelling units	15 acres <sup>2</sup>	150	15%	35	25	10	25	25	40
Independent-living	15 acres <sup>2</sup>	150	15%	35	25	10	25	25	40
retirement community, assisted-living retirement community, continuing-care retirement community, independent congregate- living residence			70%	45	25	10	25	25	40

<sup>1</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 101, General Provisions, Art. I).

RIVERHEAD CODE

Zoning Use District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Maximum Impervious Surface (%)	Maximum Height of Residential Buildings (feet)	Minimum Front Yard Depth (feet)	Minimum Either Side Yard Width (feet)	Minimum Both Side Yards, Total Width (feet)	Minimum Side Yard Abutting Side Street (feet)	Minimum Rear Yard Depth (feet)
Multifamily Residential Professional Office Zone (MRP)									

See § 301-73 of this chapter

**NOTES:**

- 1 The workforce housing option allows an increased development yield of 100%, provided that 100% of the increased development yield within the subdivision is reserved exclusively for workforce housing.
- 2 The minimum parcel area to be considered for inclusion within the Residence RC Zoning Use District shall be 15 acres with development yield of one unit per 40,000 square feet.
- 3 Agricultural worker housing development yields not to exceed one unit per 80,000 square feet of real property.

## Chapter 301. Zoning and Land Development

### Part 2. Districts

#### Article VI. Residence B-80 (RB80) Zoning Use District

##### § 301-28. Uses.

In the RB80 Zoning Use District, no building, structure or premises shall be used or arranged or designed to be used, and no building or structure shall be hereafter erected, reconstructed or altered, unless otherwise provided in this chapter, except for the following permitted uses or specially permitted uses and their customary accessory uses:

###### A. Permitted uses:

- (1) Agricultural production, including but not limited to the following:
  - (a) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes, and dry beans.
  - (b) Fruits, including apples, peaches, grapes, cherries and berries.
  - (c) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
  - (d) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
  - (e) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, farmed buffalo, fur-bearing animals, milk, eggs and furs.
  - (f) Christmas trees grown in a managed Christmas tree operation, whether dug for transplanting or cut from the stump.
  - (g) Commercial horse-boarding operations.
- (2) Dwelling, one-family.
  - (3) Attached single-family dwelling units within a cluster subdivision.  
[Amended 7-19-2005 by L.L. No. 32-2005]

- (4) Riding academy, corral or facilities for the training of horses, including but not limited to private polo chukkers.
- (5) Greenhouse, provided that the subject parcel is a minimum of five acres. A permanent greenhouse to be used for retail sales shall be subject to site plan review and approval.  
[Amended 9-6-2006 by L.L. No. 36-2006]

B. Specially permitted uses, by special permit of the Town Board:

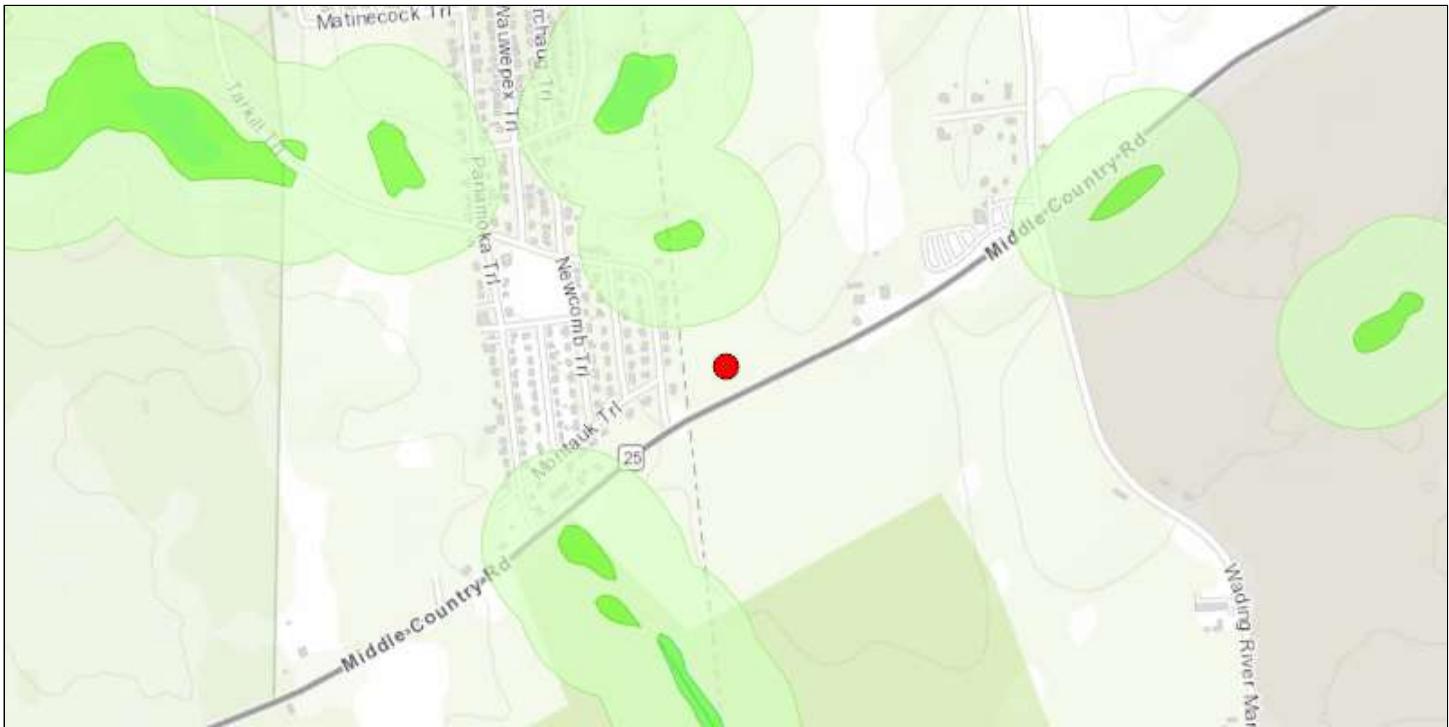
- (1) Bed-and-breakfast.
- (2) Overhead electrical power transmission and distribution lines in excess of 13 kilovolts.
- (3) Educational institution without boarding facilities or dormitories, private.
- (4) Day-care facility conducted in a residence.
- (5) Golf course (standard), with or without clubhouse.
- (6) An accessory dwelling unit with a maximum living area of 1,000 square feet on a lot of 10 acres or more, provided that the total number of dwelling units yielded by the original subdivision creating such lot is not exceeded.
- (7) Professional offices of attorneys, architects, medical doctors, or dentists, provided that the subject real property conforms to the following conditions:  
[Added 1-21-2009 by L.L. No. 6-2009]
  - (a) The property is improved with a single-family residence at the time of the adoption of this Subsection **B(7)**.
  - (b) The professional office use shall be within the building footprint of the existing single-family residence.
  - (c) The property has frontage along New York State Route 25 between Route 105 and the Town boundary with the Town of Southold.
- (8) Home occupations or professions conducted within an accessory building by the residents thereof.  
[Added 6-2-2010 by L.L. No. 13-2010]

C. Accessory uses. Accessory uses shall include those uses customarily incidental to any of the above permitted uses or specially permitted uses when located on the same lot. Specifically permitted are the following:

- (1) Home occupations or professions conducted within the dwelling by the residents thereof.  
[Amended 6-2-2010 by L.L. No. 13-2010]
- (2) The sale at retail of homegrown or homemade products, provided that all retail uses shall be subject to site plan approval pursuant to Article **LVI**, Site Plan Review, and the other provisions of this chapter. The farmer may sell supporting farm products and farm products not grown by the farmer, provided that the area devoted to the sale of said products at no time exceeds 40% of the total merchandising area.
- (3) Agricultural worker housing pursuant to the requirements of § **301-239**.  
[Added 3-15-2005 by L.L. No. 5-2005]

# Environmental Resource Mapper

F



The coordinates of the point you clicked on are:

UTM 18

Easting: 681778.5296962423

Northing: 4531223.27313912

Longitude/Latitude

Longitude: -72.84152781994021

Latitude: 40.91193638398955

The approximate address of the point you clicked on is:

6218-6298 Middle Country Rd, Manorville, New York, 11949

County: Suffolk

Town: Riverhead

USGS Quad: WADING RIVER

## Natural Communities in the Vicinity

**Natural Community Name:** Coastal plain pond shore

**Location:** Pond North of Dead Car Pond

**Significance:** High Quality Occurrence of Rare Community Type

**Natural Community Name:** Coastal plain pond shore

**Location:** Round Pond Tarkill

**Significance:** High Quality Occurrence of Rare Community Type

**Natural Community Name:** Coastal plain pond shore

**Location:** Corey Pond

**Significance:** Rare Community Type

**Natural Community Name:** Pitch pine-oak forest

**Location:** Brookhaven Woods

**Significance:** High Quality Occurrence of Rare Community Type

**Natural Community Name:** Coastal plain pond shore

**Location:** Horn Pond

**Significance:** Rare Community Type

**Natural Community Name:** Coastal plain pond shore

**Location:** Dead Car Pond

**Significance:** High Quality Occurrence of Rare Community Type

**Natural Community Name:** Pine barrens shrub swamp

**Location:** Peconic River Headwaters Wetlands

**Significance:** High Quality Occurrence of Uncommon Community Type

### Rare Plants and Rare Animals

**This location is in the vicinity of** Rare Plants Listed as Endangered, Threatened, or Rare by NYS

**This location is in the vicinity of** Animals Listed as Endangered or Threatened - Contact NYSDEC Regional Office

**This location is in the vicinity of** Fish Listed as Endangered or Threatened – Contact NYSDEC Regional Office

**This location is in the vicinity of** Bats Listed as Endangered or Threatened -- Contact NYSDEC Regional Office

**This location is in the vicinity of** Rare Moths Listed as Special Concern by NYS

**This location is in the vicinity of** Rare Dragonflies and Damselflies – Not Listed by NYS

If your project or action is within or near an area with a rare animal, a permit may be required if the species is listed as endangered or threatened and the department determines the action may be harmful to the species or its habitat.

If your project or action is within or near an area with rare plants and/or significant natural communities, the environmental impacts may need to be addressed.

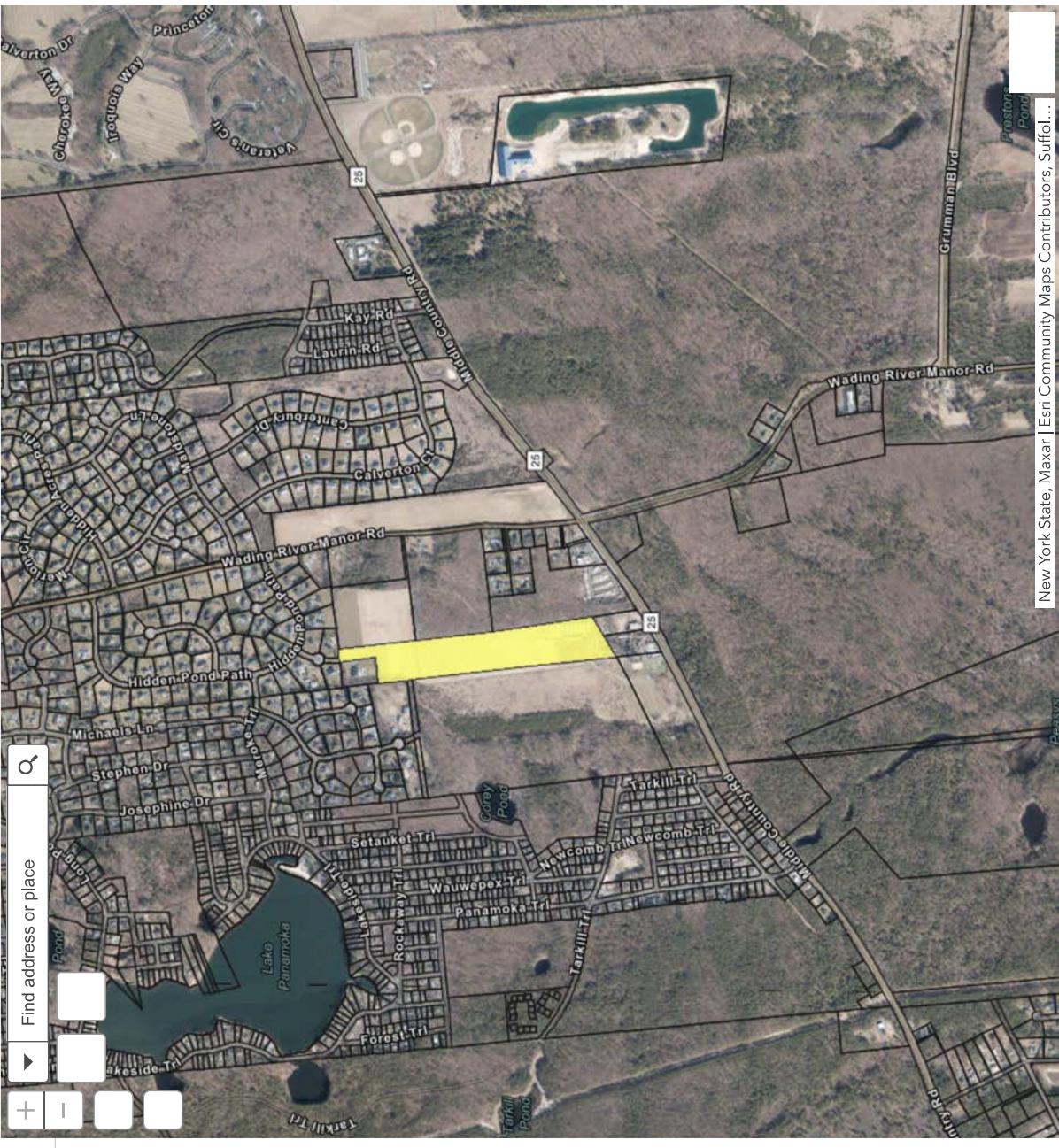
The presence of a unique geological feature or landform near a project, unto itself, does not trigger a requirement for a NYS DEC permit. Readers are advised, however, that there is the chance that a unique feature may also show in another data layer (ie. a wetland) and thus be subject to permit jurisdiction.

Please refer to the "Need a Permit?" tab for permit information or other authorizations regarding these natural resources.

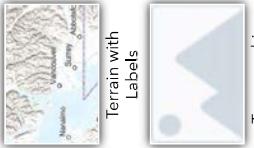
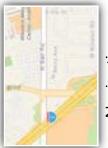
**Disclaimer:** If you are considering a project or action in, or near, a wetland or a stream, a NYS DEC permit may be required. The Environmental Resources Mapper does not show all natural resources which are regulated by NYS DEC, and for which permits from NYS DEC are required. For example, Regulated Tidal Wetlands, and Wild, Scenic, and Recreational Rivers, are currently not included on the maps.

# Suffolk County Agricultural District Parcels Viewer

Suffolk County Agricultural District Parcels Program



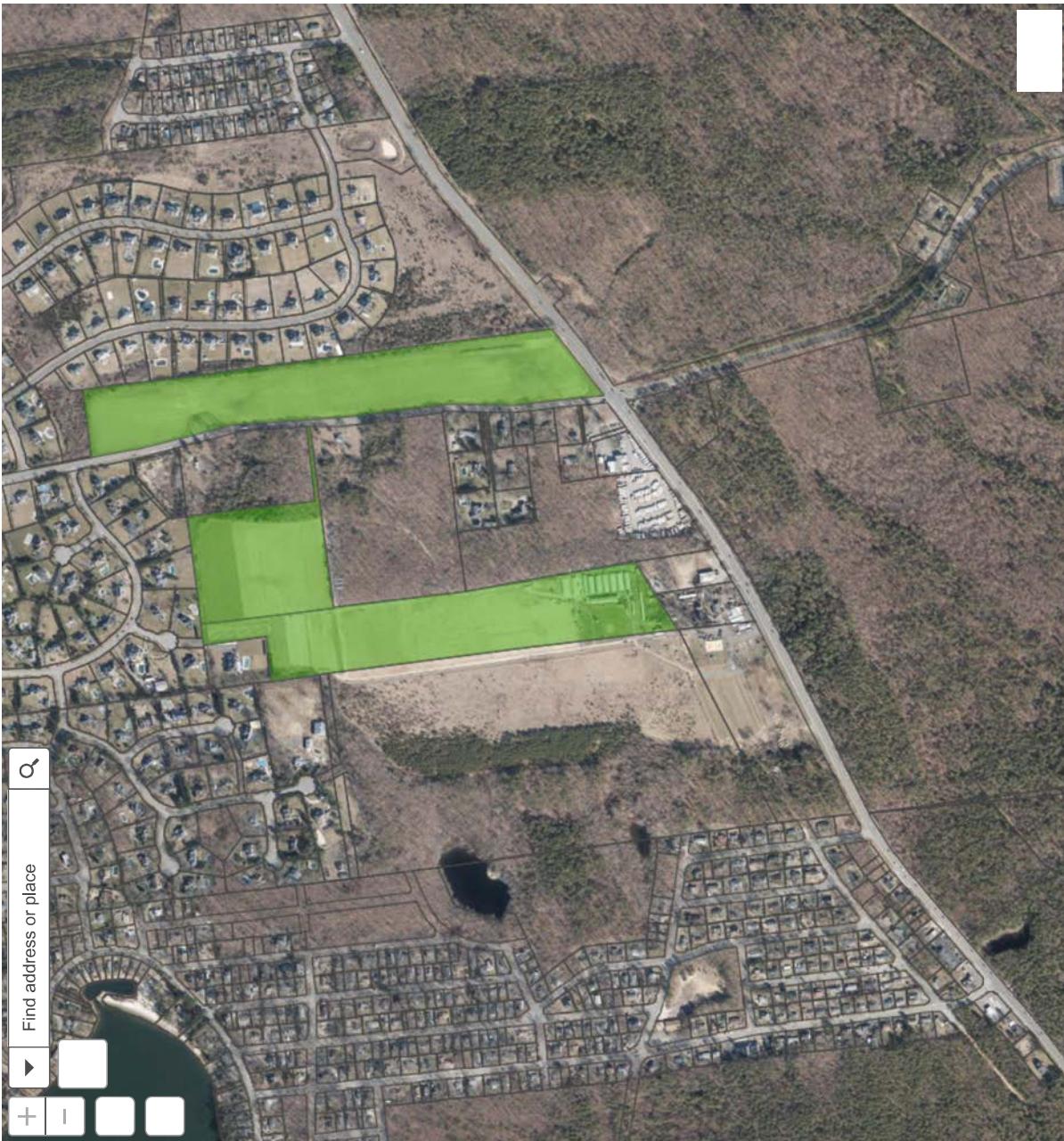
## Basemap Gallery



G

All rights reserved

72.85140, 926 Degrees



H

doct

1,302,356.775 275,368.567 Feet

All rights reserved

**Hargrave, Julie**

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**From:** Finks Finks <finko27@yahoo.com>  
**Sent:** Thursday, January 28, 2021 3:23 PM  
**To:** Hargrave, Julie  
**Subject:** 1281 Wading River Rd, Wading River

**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,

It was nice speaking with you yesterday. The property we are in contract to purchase is 14.80 acres. We are looking to do a minor subdivision. We would potentially be seeking to do 4 lots: Three 1-acre lots (for each of our children) and one 11.80 agricultural lot with a building envelope on it for us. One of the 1-acre lots would have an existing house on it. The other two would be vacant land for new construction down the road. As per Riverhead Town a minor subdivision can be done but because in the CGA they requested a letter from you stating no objection to the subdivision. We understand the clearance limits.

1281 Wading River Manor Rd  
Wading River, New York  
TAX MAP #: 0600 115.000 0001 005.000

I can be reached on my cell or via email for any further questions you may have, or you can call David as well.

Thank you,  
Michelle  
5164469438  
6314452912 (David)  
Sent from [Mail](#) for Windows 10



February 8, 2021

Michelle Finks  
Fink's Country Farm, Inc.  
6242 Middle Country Road  
Manorville, New York 11949

RE: 1281 Wading River Manor Wading River, Town of Riverhead Road  
SCTM # 600-115-1-5  
Central Pine Barrens Compatible Growth Area

Dear Ms. Finks:

Vacant  
Chair

Steven Bellone  
Member

Yvette Aguiar  
Member

Edward P. Romaine  
Member

Jay H. Schneiderman  
Member

On January 28, 2021, the Central Pine Barrens Commission received your email inquiry regarding the referenced property in the Central Pine Barrens Compatible Growth Area.

Your letter states you are in contract to purchase 14.8 acres. Except for the residence in the northeast corner, the site is entirely wooded with natural pine barrens vegetation.

The proposal appears to constitute development activity, pursuant to New York State Environmental Conservation Law Article 57. Please provide more information on the proposal for review. You may choose to:

- Submit a written request to the Commission for a determination of jurisdiction
- Submit a completed Compatible Growth Area Hardship application (copy enclosed) and provide a demonstration of conformance with the Central Pine Barrens Comprehensive Land Use Plan (Plan).
- Submit your proposal directly to the Town of Riverhead, and the Town will review the project for conformance to the Plan, as implemented by the Town Code, and refer it to the Commission as necessary.

Thank you for your attention, and please contact me if you have any questions at (631) 218-1192.

Sincerely,

A handwritten signature in black ink that reads "Julie Hargrave".  
Julie Hargrave  
Principal Environmental Planner

cc: Judy Jakobsen, Interim Executive Director  
John Milazzo, Commission Counsel  
Daniel McCormick, Designated Representative and Deputy Town Attorney Town of Riverhead

624 Old Riverhead Road  
Westhampton Beach, NY  
11978

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

Central Pine Barrens Commission Public Hearing May 18, 2022  
 Finks Country Farm Compatible Growth Area Hardship Waiver  
 6242 Middle Country Road, Wading River, Town of Riverhead  
 SCTM # 600-134-1-3  
 Study Area Map



 Study Area  
 1/2 mile radius

0 300 600 1,200 1,800 2,400  
 Feet

SCTM # 600-134-1-8.4 in Agricultural District 7

Suffolk County Purchase Development Rights Parcels include:  
 SCTM #s 600-134-1-8.4,  
 600-115-1-4.3 and 600-115-1-9

2020 aerial

## COASTAL FISH &amp; WILDLIFE HABITAT ASSESSMENT FORM

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Name of Area:	<b>Peconic River</b>
Designated:	<b>March 15, 1987</b>
Date Revised:	<b>May 15, 2002</b>
County:	<b>Suffolk</b>
Town(s):	<b>Brookhaven, Riverhead, Southampton</b>
7½' Quadrangle(s):	<b>Wading River, NY; Moriches, NY; Riverhead, NY</b>

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**Assessment Criteria**

**Ecosystem Rarity (ER)--the uniqueness of the plant and animal community in the area and the physical, structural, and chemical features supporting this community.**

ER assessment: The longest river on Long Island; the Peconic is a relatively large, slow moving, acidic river with a very undeveloped watershed. Unique on Long Island.

Calculation:  $\sqrt{25 \times 64} =$

40

**Species Vulnerability (SV)--the degree of vulnerability throughout its range in New York State of a species residing in the ecosystem or utilizing the ecosystem for its survival.**

SV assessment: Tiger salamander (E), banded sunfish (T), eastern spadefoot toad (SC), eastern hognose snake (SC), spotted turtle (SC), southern sprite damselfly (T), coastal barrens buckmoth (SC), painted bluet (T), and pine barrens bluet (T) present.

Calculation:  $36 + (25/2) + (25/4) + (25/8) + (25/16) =$

59.44

**Human Use (HU)-- the conduct of significant, demonstrable commercial, recreational, or educational wildlife-related human uses, either consumptive or non-consumptive, in the area or directly dependent upon the area.**

HU assessment: Recreational fishing for warmwater species attracts anglers from throughout Long Island.

9

**Population Level (PL)--the concentration of a species in the area during its normal, recurring period of occurrence, regardless of the length of that period of occurrence.**

PL assessment: One of only 2 locations in the state supporting banded sunfish. One of only 4 major documented alewife spawning areas in Peconics region.

16

**Replaceability (R)--ability to replace the area, either on or off site, with an equivalent replacement for the same fish and wildlife and uses of those same fish and wildlife, for the same users of those fish and wildlife.**

R assessment: Irreplaceable.

1.2

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**Habitat Index = [ER + SV + HU + PL] = 124.44**

**Significance = HI x R =**

NEW YORK STATE  
SIGNIFICANT COASTAL FISH AND WILDLIFE HABITAT  
NARRATIVE

**PECONIC RIVER**

**LOCATION AND DESCRIPTION OF HABITAT:**

The Peconic River is located in central Long Island, in the Towns of Brookhaven, Riverhead, and Southampton, Suffolk County (7.5' Quadrangles: Wading River, NY; Moriches, NY; and Riverhead, NY). The river flows in a west to east direction, beginning near Brookhaven National Laboratory, and emptying into Flanders Bay. The fish and wildlife habitat is the freshwater portion of the river, which extends approximately 15 miles, from County Route 63 in the center of Riverhead, to the headwaters in Peconic River County Park. The coastal plain pond complexes to the north of the river are also included in this habitat, encompassing Horn Pond, Round Pond, Peasys Pond, Woodchopper's Pond, Duck Pond, Sandy Pond, Grassy Pond, Twin Ponds, Jones Pond, Zeeks Pond, North Pond, Prestons Pond, Forest Pond, Linus Pond, Fox Pond, Sandy Pond, and Swan Pond. This stretch of the river is a warm, slow-moving, naturally acidic, and nutrient poor, freshwater stream ecosystem. Early settlers dammed the river in many places to create mill ponds, and to control water levels for cranberry farming; today, there are a number of small ponds and large impoundments on the main river channel and its tributaries. The rare coastal plain pond and pond shore communities, as well as coastal plain poor fen and pine barrens swamp, occur at the headwaters of the river. Above Connecticut Avenue, the river winds through the undeveloped Peconic River County Park, and has a wilderness character, bordered by marshes, swamps, upland forest (including pine barrens, pitch pine-oak forest, and red maple-black gum swamp), and a small number of houses. In this stretch, the Peconic River is generally very narrow, heavily vegetated, and bordered with a variety of bog plant species. Between Connecticut Avenue and Peconic Lake (also called Forge Pond), the river is similar in nature to the upstream segment, but is bordered by greater numbers of residences and farms. The river widens below Peconic Lake, and commercial and residential development along the shore increases considerably as one approaches Riverhead. Average river discharge at Riverhead is approximately 37 cubic feet per second, from a total drainage area of approximately 75 square miles. River flows are regulated to some extent by pond discharges and by a discharge of treated effluent from Brookhaven National Laboratory. The Peconic River is part of the Central Pine Barrens Core Preservation Area.

**FISH AND WILDLIFE VALUES:**

The Peconic River is one of four major rivers on Long Island, and nearly all of the upper watershed area remains in a relatively undisturbed condition. This is especially rare on Long Island. The Peconic River has been designated as a candidate Wild and Scenic River by the U.S. Department of the Interior, because it represented the last significant undeveloped river within the unique Long Island pine barrens area; New York State designated it as a Scenic and

Recreational River under the Wild, Scenic, and Recreational Rivers System Act (under Article 15, Title 27 of the Environmental Conservation Law) to encourage preservation and restoration of its outstanding natural resource qualities. The Peconic River and its estuary were also designated as an estuary of national significance by the U.S. EPA in 1992, part of the National Estuary Program. The river supports extensive areas of bog and freshwater marsh communities, which serve as valuable fish and wildlife habitats in the region.

The entire length of the Peconic River is a productive habitat for warmwater fisheries. Some of the more abundant species which naturally reproduce here include largemouth bass, chain pickerel, bluegill, carp, brown bullhead, yellow perch, black crappie, pumpkinseed, and white perch. The New York State Conservation Department stocked walleye, bass, and yellow perch in the river (below Forge Pond, primarily) during the 1930's. Currently, natural reproduction sustains the fisheries resources. Above Connecticut Avenue, the Peconic River is one of only two localities in New York State supporting populations of banded sunfish (T), and is the most significant area for the species in New York State. The banded sunfish has habitat requirements that restrict it to sluggish, heavily vegetated, acidic waters of the coastal plain, but little is known of the species' life history and environmental tolerances. The banded sunfish is one of the truly native species of Long Island. The Peconic River is one of four documented alewife spawning habitats on Long Island, extending upstream to the dam immediately west of Peconic Avenue.

The Peconic River is an outstanding habitat for a variety of wildlife. Many species of birds inhabit the wetlands bordering the river, including Canada goose, American black duck, mallard, wood duck, American wigeon, pied-billed grebe, green-winged teal, American bittern, mute swan, and great blue heron. Other species found in the area include white-tailed deer, mink, raccoon, woodcock, spotted turtle (SC), stinkpot, and little brown bat. Tiger salamander (*Ambystoma tigrinum*, E) are found in the coastal plain pond complexes adjacent to the Peconic River. The New York Natural Heritage Program documents the presence of coastal barrens buckmoth (*Hemileuca maia*, SC) in the Peconic River area.

The coastal plain pond communities of the Peconic River headwaters also support rare insect species including lateral bluet (*Enallagma laterale*), painted bluet (*Enallagma pictum*, T), and pine barrens bluet damselflies (*Enallagma recurvatum*, T), southern sprite damselfly (*Nehalennia intergricollis*, T), violet dart (*Euxoa violaris*), and pink sallow (*Psectraglaea carnosa*). Coastal plain pond habitats sometimes dry up completely, making them uninhabitable for fish but providing favorable habitat for rare flora and fauna, including the endangered tiger salamander. Long Island is the northern limit of the tiger salamander in the eastern part of its known range, and the Long Island Pine Barrens and Peconic River area is a stronghold for this species, with over 60 known occurrences. Other amphibians using these ponds include spotted salamander, common red-backed salamander, wood frog, northern spring peeper, and eastern spadefoot toad (*Scaphiopus holbrookii*, SC). Regionally rare reptile species found within the habitat complex include spotted turtle (SC) and eastern hognose snake (SC).

Due to the abundant fisheries resources in the Peconic River, it supports a recreational freshwater fishery of regional significance. Access to the river is generally limited by the dense vegetative border and private land ownership. The New York State Department of Environmental

Conservation currently manages 3 fishing access points on the river, and acquisition of a fourth was proposed in 1984. Increasing numbers of anglers and other recreationists are exploring the river by canoe. Peconic River County Park provides access for local birdwatchers, naturalists, and school groups, to enjoy the river's fish and wildlife resources.

The rare coastal plain pond and pond shore communities occur at the headwaters of the river. Plants found in the Peconic River habitat include the following: quill-leaf arrowhead (*Sagittaria teres*, E), knotted spikerush (*Eleocharis equisetoides*, T), long-tuberled spikerush (*Eleocharis tuberculosa*, T), short-beaked bald-rush, long-beaked bald-rush, horned beaked-rush, reticulated nutrush, slender blue flag, pine barren bellwort (*Uvularia puberula* var *nitida*, E), slender crabgrass, panic grass, bog aster, rose coreopsis, northeastern smartweed, Nuttall's lobelia, Carolina redroot (*Lachnanthes caroliana*, T), comb-leaved mermaid-weed, two-flowered bladderwort, fibrous bladderwort, rush bladderwort, small floating bladderwort, globe-fruited ludwigia, golden dock (*Rumex maritimus* var *fueginus*, T), primrose violet, and pine barren gerardia. Above Connecticut Avenue a variety of bog plant species are found, including sphagnum and peat mosses, leatherleaf, sundews, highbush blueberry, sweet pepperbush, buttonbush, red maple, tupelo, and Atlantic white cedar.

#### IMPACT ASSESSMENT:

Any activity that would degrade water quality, increase turbidity or sedimentation, or alter flows in the Peconic River would have an impact on the fish and wildlife species using the area. Discharges or runoff of sewage effluent, pesticides, or other hazardous materials into the river would be detrimental to many of the resident aquatic species and also to the potential human uses of those resources. Total phosphorus levels in the upper Peconic are unusually high, but no specific source has been linked to this phenomenon to date. Increased development of the region would degrade water quality, increase turbidity, alter hydrology, and increase discharges of pesticides or hazardous materials into the river or ponds. Significant localized contamination of groundwater with petroleum products and organic solvents has occurred near major facilities such as Brookhaven National Laboratory. Eutrophication caused by runoff from fertilizers, septic tanks, roads, farmlands, and lawns is of considerable concern, as such over-enrichment of naturally acidic and nutrient-poor waters could lead to invasions and dominance by exotic, nutrient-loving, weedy plants and concurrent displacement of the native flora.

The lowermost reaches of the Peconic River (currently outside the habitat boundary) are commercially and residentially developed, but development continues to encroach upstream. Some areas of the adjacent Pine Barrens are threatened with subdivision and development. Increased public access to the area may be desirable, but such developments must be planned to avoid valuable natural areas that have not previously been disturbed. The Town of Southampton lists the Peconic River and adjacent wetlands as a top priority for land acquisition and planning to control growth and development.

Impediments to movement and migration of aquatic species through the river corridor should be prohibited, and plans to mitigate the impact of existing structures should be developed. In 1995 the New York State Department of Environmental Conservation lifted spawning alewife over the

first dam. Survival and growth of the young fish will be monitored to determine the feasibility of providing additional fish passage in the river. Other commercially and recreationally harvested fish and waterfowl should be monitored to ensure that optimum sustainable populations are maintained over the long term.

Unrestricted use of motorized vessels including personal watercraft in the protected, shallow waters of bays, harbors, and tidal creeks can have adverse effects on aquatic vegetation and fish and wildlife populations. Use of motorized vessels should be controlled (*e.g.*, no wake zones, speed zones, zones of exclusion) in and adjacent to shallow waters and vegetated wetlands.

Elimination or disturbance of adjacent wetland and forest habitats would adversely affect certain wildlife species that are relatively uncommon on Long Island, and would diminish the existing wilderness character of the Peconic River. Human disturbance of wetlands includes illegal dumping of household and commercial waste, the use of all-terrain vehicles on trails and shorelines, disruption of pond shores (including raking, mowing, trampling, or clearing of native vegetation), and destruction or removal of plants as a result of development or poor land management. Significant changes in the water quality or hydrologic regime of coastal plain ponds would result in the loss of rare species and degradation of the ecological character and value of pond and pond shore communities. Illegal restocking of these ponds with non-native species by local anglers results in displacement of native species. Permanent drawdown of the water table would result in the invasion of woody species into the pond shore zones, while prolonged flooding would inhibit the germination and growth of pondshore plants. Introduction of exotic plant species from the backyard aquarium trade (such as the already present parrot's-feather), from gardens and commercial landscaping, and other sources threaten the natural diversity of aquatic and riverine wetland plant species. Control of invasive nuisance plant species, through a variety of means, may improve fish and wildlife species use of the area and enhance overall wetland values.

## **KNOWLEDGEABLE CONTACTS:**

Habitat Unit  
NYS Department of State  
Division of Coastal Resources  
41 State Street  
Albany, NY 12231  
Phone: (518) 474-6000

NYSDEC—Region 1  
State University of New York, Building 40  
Stony Brook, NY 11790-2356  
Phone: (631) 444-0354

Wildlife Manager  
NYSDEC—Region 1  
State University of New York, Building 40  
Stony Brook, NY 11790  
Phone: (631) 444-0310

Fisheries Manager  
NYSDEC—Region 1  
State University of New York, Building 40  
Stony Brook, NY 11790  
Phone: (631) 444-0280

Bureau of Marine Resources  
NYSDEC  
205 N. Belle Meade Road, Suite 1  
East Setauket, NY 11733  
Phone: (631) 444-0430

New York Natural Heritage Program  
Wildlife Resources Center  
700 Troy-Schenectady Road  
Latham, NY 12110  
Phone: (518) 783-3932

Department of Environmental Protection  
Town of Brookhaven  
3233 Route 112  
Medford, NY 11763  
Phone: (631) 451-6458

Environment Division  
Department of Land Management  
Town of Southampton  
116 Hampton Road  
Southampton, NY 11968  
Phone: (631) 287-5710

Office of Ecology  
Suffolk County Dept. of Health Services Bureau of Environmental Management  
County Center  
Riverhead, NY 11901  
Phone: (631) 852-2077



## **Significant Coastal Fish and Wildlife Habitats**





## STANDARDS FOR LAND USE

Standard (S)		Explanation and Document Page Reference (Attach additional sheets if necessary)
S 5.3.3.1.1	Suffolk County Sanitary Code Article 6 compliance	N/A
S 5.3.3.1.2	Sewage treatment plant discharge	N/A
S 5.3.3.2.1	Suffolk County Sanitary Code Articles 7 & 12 compliance	N/A
S 5.3.3.3.1	Significant discharges and public supply well locations	N/A
S 5.3.3.4.1	Nondisturbance buffers	N/A
S 5.3.3.4.2	Buffer delineations, covenants and conservation easements	N/A
S 5.3.3.4.3	Wild, Scenic and Recreational Rivers Act compliance	N/A
S 5.3.3.5.1	Stormwater recharge	N/A
S 5.3.3.6.1	Vegetation Clearance Limits	currently at
S 5.3.3.6.2	Unfragmented open space	N/A

Standard (S)	Explanation and Document Page Reference <i>(Attach additional sheets if necessary)</i>	
S 5.3.3.6.3	Fertilizer-dependent vegetation limit	N/A
S 5.3.3.6.4	Native Plantings	N/A
S 5.3.3.7.1	Special species and ecological communities	N/A
S 5.3.3.9.1	Receiving entity for open space dedications	N/A
S 5.3.3.12.1	Commercial and industrial compliance with Suffolk County Sanitary Code	N/A



FINK'S COUNTRY FARM, INC  
6242 MIDDLE COUNTRY RD  
MANORVILLE, NY 11949  
631.886.2272  
[www.finksfarm.com](http://www.finksfarm.com)  
[info@finksfarm.com](mailto:info@finksfarm.com)

January 5, 2022

RE: Suffolk County Tax Map #: 600.134.01.001.03

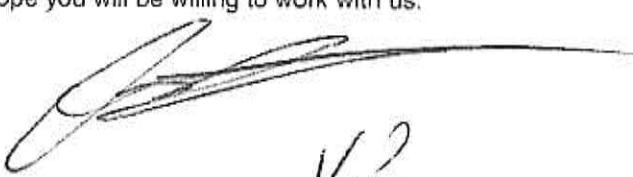
To Whom It May Concern:

We currently own and operate Fink's Country Farm Inc. in Wading River, New York. We are the fourth generation to farm in our family and the third in the town of Wading River. Our current farm operation is conducted on approximately 60 acres, all of which adjoin or are near our main farm on Middle Country Road. The farm parcel we are requesting a hardship for can be found on the Suffolk County Tax Map as District 600 Section 134 Block 01 Lot 1.3. The land is currently owned by another entity of ours, Chemma, LLC, as landlord. The property is located in the Pine Barrens Compatible Growth Area. In February of 2015, we applied for a clearance permit on the property to its allowable clearance limit of 65%. Such permit was applied to and approved by Riverhead Town. A Certificate of Compliance was issued on March 11, 2016. As per our approval letter from Riverhead Town for the original clearing, any further clearing on the property will require approval from the Pine Barrens. We are in need of further clearing to expand our growing family business. Farmland is crucial to our growth and hopes for our three children and future generations to be able to continue our family legacy, as well as fulfill the needs of our growing community. As you are already aware, farmland on Long Island is rare and unfortunately is becoming less available in our local area. With the increasing demand for local produce, the full utilization of our farmland would benefit our small business tremendously. The further clearing would allow for us to produce more of our own crops and flowers. Therefore, we are asking the Pine Barrens Commission for permission to further clear the parcel up to 95%. We have provided an application completed to the best of our ability, as well as, an overlay map showing current clearing and the proposed clearing limits. We do hope you will find them helpful.

We thank you for your time and consideration and do hope you will be willing to work with us.

Thank you in advance,

  
Michelle & David Fink,  
Fink's Country Farm, Inc.

  
V.?

CENTRAL PINE BARRENS  
JOINT PLANNING & POLICY COMMISSION

-----x  
IN RE:

FINK'S COUNTRY FARM,

APPLICANT.

-----x

**AFFIDAVIT OF DAVID FINK IN SUPPORT OF APPLICATION**

STATE OF NEW YORK      )  
                            )  
                            ) ss.  
COUNTY OF SUFFOLK      )

David Fink, hereby deposes and says under penalty of perjury as follows:

1.     I am the Vice President of Fink's Country Farm ("Applicant"). I submit this affidavit in support of Applicant's application for a hardship variance to clear 3.36 acres, or 30% of Applicant's leased property, which is located entirely in the Compatible Growth Area of the Central Pine Barrens (the "CGA").

2.     Applicant is the tenant of the property located at Suffolk County located east of the intersection of Route 25 and Tarkill Trail in Ridge, New York and is designated Tax Map No. 600.134.01.001.03 (the "Property"). The Property is comprised of 11.2 acres. The Property is located entirely within the CGA.

3.     Applicant leases the property from Chemma, LLC (the "Landlord").

4.     Applicant has filed the application with consent of the Landlord, which is owned solely by me and my wife, Michelle Fink.

5.     The Property is used solely for agricultural purposes.

6.     Applicant currently realizes a meager yearly profit for the Property of approximately \$1,753.00. Applicant respectfully submits that this yearly return is unreasonable.

If this variance is granted, Applicant expects its yearly profit for the Property to modestly increase to \$25,609.00.

7. Currently, the Property consists of 7.28 cleared acres, 7.03 of which are used for agricultural purposes and 0.25 of which is an impervious driveway. The remaining 3.92 acres is wooded with natural vegetation (the "Uncleared Portion") rendering farming impossible without the vegetation being cleared. The requested clearing, if approved, will leave a uncleared buffer between the Property and the residential area to the west.

8. Applicant requests authorization to clear the vegetation located on 3.36 acres of the Uncleared Portion. Specifically, Applicant intends to clear the area designated on the attached figures on the aerial map attached to the Application. Town of Riverhead advised that this clearing would need approval of this Commission.

9. Applicant submits that to the best of its knowledge, it has, and will continue to, comply with best management practices as stated in the *Agricultural Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State, June 2007*.

10. Applicant respectfully submits that it has been caused an unnecessary hardship as it is unable to obtain a reasonable return without the requested clearing.

[Signatures on Following Page]



David Fink  
Vice President of Fink's Country Farm

Sworn to before me this  
30<sup>th</sup> day of March 2022

Cecilia Pachec  
Notary Public, State of New York  
No. 01PA6157361  
Qualified in Suffolk County  
Commission expires feb 16, 2023

CECILIA PACHECO  
Notary Public - State of New York  
No. 01PA6157361  
Qualified in Suffolk County  
My Commission Exp. 02/06/2023



FINK'S COUNTRY FARM, INC  
6242 MIDDLE COUNTRY RD  
MANORVILLE, NY 11949  
631.886.2272  
[www.finksfarm.com](http://www.finksfarm.com)  
[info@finksfarm.com](mailto:info@finksfarm.com)

January 5, 2022

To Whom It May Concern:

Please find below a financial analysis of the 11.2 acre parcel below:

**YEARLY PROFIT/LOSS AT CURRENT 65% CLEARANCE LIMIT:**

**7.28 acres -.25 acres of impervious surface = 7.03 acres of farmable land**

Current cost: \$54,487 (approx. avg. \$4865 per acre for 11.2 acres)

Gross sales: \$56,240 (7.03 acres x \$8,000 per acre)

***Profit/Loss: + \$1753 (approx. avg. \$249 per acre)***

**YEARLY PROJECTED PROFIT/LOSS AT 95% cleared:**

**10.64 acres -.25 acres of impervious surface = 10.39 acres of farmable land**

Potential cost: \$57,511 (increased for production costs on the additional 3.36 cleared acres)

Gross sales: \$83,120 (10.39 acres x \$8,000)

***Profit/Loss: +\$25,609 (approx. avg. \$2465 per acre)***

Thank you,

Michelle & David Fink,  
Fink's Country Farm, Inc.

CENTRAL PINE BARRENS  
JOINT PLANNING & POLICY COMMISSION

-----X  
IN RE:

FINK'S COUNTRY FARM,

APPLICANT.

-----X

**AFFIRMATION OF NICHOLAS C. RIGANO, ESQ. IN SUPPORT OF APPLICATION**

Nicholas C. Rigano, hereby deposes and says as follows:

1. I am a partner at Rigano LLC, counsel for Fink's Country Farm (“Applicant”). I submit this affirmation in support of Applicant's application for a hardship variance to clear 3.36 acres, or 30% of Applicant's leased property, which is located entirely in the Compatible Growth Area of the Central Pine Barrens (the “CGA”). Applicant intends to use the cleared land solely for agricultural purposes. As set forth fully in the Application, the annexed Affidavit of David Fink and below, Applicant hereby respectfully requests a hardship variance from section 5.3.3.6.1 of the Central Pine Barrens Comprehensive Land Use Plan (“CLUP”) and section 301-197(A)(8) of the Town of Riverhead Code, and pursuant to section 57-0123(3)(b) of the New York State Environmental Conservation Law (the “ECL”).

**PRELIMINARY STATEMENT**

2. Under applicable law, Applicant is authorized to clear (and in turn, farm) only 65% of the Property. This limitation has caused Applicant to realize a meager *yearly* profit for the Property of \$1,753.00. Applicant respectfully submits that this yearly return is unreasonable. Applicant respectfully requests a hardship variance for authority to clear an additional 30% of the Property, or 3.36 acres, to enable Applicant to farm crops and produce livestock in the future on the Property. According to historical aerials submitted herewith, a large portion of this area

was historically cleared and appears to have been used for farmland. If granted, Applicant will agree to limit the use of the 3.36 acres to agricultural uses. Applicant would expect its *yearly* profit for the Property to modestly increase to \$25,609.00. The proposed remaining uncleared portion of the Property will serve as a buffer for the residential area to the west.

3. The requested variance will not be at odds with the intent, spirit and goals of the CLUP, the ECL and the Riverhead Town Code. Indeed, section 5.3.3 of the CLUP provides that “[t]he Commission recognizes the need for balanced growth and development consistent with the water resource protection and habitat preservation goals provided for in the Act.” Further, the ECL provides that an objective for land use with respect to the CGA is to “to accommodate appropriate patterns of development and regional growth with recognition of the rights of private land owners.” See ECL § 57-0105, ¶ 8. In fact, there is a question as to whether agriculture may be regulated in the CGA as the ECL provides that agriculture is not considered “development”. See ECL § 57-0107(13).

4. Applicant submits the requested variance will enable Applicant to realize a reasonable rate of return for its farming operation on the Property while preserving the essential character of the CGA. Applicant respectfully requests that the requested variance be granted.

## **BACKGROUND**

### **I. The Property**

5. Applicant is the tenant of the property located at Suffolk County located east of the intersection of Route 25 and Tarkill Trail in Ridge, New York and is designated Tax Map No. 600.134.01.001.03 (the “Property”). The Property is comprised of 11.2 acres. The Property is located entirely within the CGA. See David Fink Affidavit, ¶ 2.

6. Applicant leases the property from Chemma, LLC (the “Landlord”), which is solely owned by David Fink and Michelle Fink. As set forth in the enclosed affidavits, Landlord has authorized the Applicant to make this application.

7. The Property is used solely for agricultural purposes. Applicant intends to continue that use. See David Fink Affidavit, ¶ 5.

8. Applicant currently realizes a meager yearly profit for the Property of \$1,753.00. Applicant respectfully submits that this yearly return is unreasonable. If this variance is granted, Applicant expects its *yearly* profit for the Property to modestly increase to \$25,609.00, allowing its shareholders to make a very modest living. See David Fink Affidavit, ¶ 6; Financial Disclosure Letter dated Jan. 5, 2022.

9. The Property is currently zoned in the Town of Riverhead as “RB80”. See email from Emily Toth (Town of Riverhead) to Nicholas Rigano dated March 3, 2022. Under the CLUP and the Code for the Town of Riverhead, the maximum clearing percentage for properties zoned RB80 is 53%. See CLUP, 5.3.3.6.1; Riverhead Town Code, § 301-197(A)(8)(a). However, on February 18, 2015, the Town of Riverhead authorized clearing of 65% of the Property in accordance with its historical zoning classification. See Ltr. from Town of Riverhead to David Fink dated Feb. 18, 2015.

10. Currently, the Property consists of 7.28 cleared acres, 7.03 of which are used for agricultural purposes and 0.25 of which is an impervious driveway. The remaining 3.92 acres are wooded with natural vegetation (the “Uncleared Portion”) rendering farming impossible without the vegetation being cleared. See David Fink Affidavit, ¶ 7.

11. By this application, Applicant requests authorization to clear the vegetation located on 3.36 acres of the Uncleared Portion. Specifically, Applicant intends to clear the area

found on the attached figures. See David Fink Affidavit, ¶ 8. According to historical aerial photographs annexed hereto a large portion of the 3.36 was historically cleared and appears to have been used as farmland. See Historical Aerial Maps. The historical aerial photographs were downloaded by the undersigned from the Suffolk County GIS database.

12. The Town of Riverhead has advised that no further clearing would be allowed without approval of this Commission. See Ltr. from Town to David Fink dated Feb. 18, 2015.

### **DISCUSSION**

13. Applicant respectfully submits that applicable law has caused an unnecessary hardship on Applicant, a family owned farm, in its quest to operate at a marginal profit to enable its shareholders to make a modest living. Specifically, Applicant is authorized to clear only 65% of its land leaving Applicant to operate at meager yearly profit of \$1,753.00. The existing use limitations for the Property have caused Applicant to realize an unreasonable rate of return. If, however, Applicant is authorized to clear, Applicant could farm its land at a modest profit.

14. Under section 57-0123(3)(a)-(b) of the ECL -

[N]o application for development within the Central Pine Barrens area shall be approved by any municipality or county or agency thereof or the commission . . . for . . . the disturbance of any land within such area shall be granted, unless such approval or grant conforms to the provisions of such land use plan; provided, however, that the commission by majority vote is . . . 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 title, is consistent with the purposes and provisions of this title and would not result in substantial impairment of the resources of the Central Pine Barrens area.

N.Y. Envtl. Conserv. Law § 57-0123(a)-(b).

15. Section 57-0121(9) of the ECL provides, in pertinent part, as follows:

Any person, the state or a public corporation applying for development in such compatible growth areas who has received all necessary local and state approvals may petition the commission for approval of the development . . . 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.

N.Y. Envtl. Conserv. Law § 57-0121(9).

16. Section 267-b(2)(b)-(c) of the Town Law provides, as follows:

(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.

Town Law § 267-b(2)(b)-(c).

## II. **The Hardship**

17. Applicant submits that applicable law has caused an unnecessary hardship. Applicant submits that the standards codified in Town Law 257-b are met and respectfully requests that a hardship variance be granted to allow the requested clearing to occur.

*a. Without the Requested Clearance, Applicant Cannot Realize a Reasonable Return*

18. Applicant cannot realize a reasonable return without the requested clearing.

19. As demonstrated by the attached financial disclosure, Applicant currently realizes a yearly profit for the Property of only \$1,753.00. If the requested variance is granted, Applicant estimates its yearly profit for the Property will increase to a mere \$25,609.25.

20. The requested variance will enable Applicant's shareholders to maintain a modest living. Without the variance, Applicant may be forced to close its farming operation on the Property as such operation will not be profitable.

*b. The Hardship Related to the Property is Unique and Does not Apply to a Substantial Portion of the District or Neighborhood*

21. The described hardship related to the Property is unique as the Applicant cannot realize a reasonable rate of return by farming the Property due to the vegetation growing on the uncleared portion of the land. This hardship does not apply to a substantial portion of the applicable district or neighborhood.

*c. The Requested Variance, if Granted, Will Not Alter the Essential Character of the Neighborhood*

22. The requested variance will not alter the essential character of the neighborhood.

The variance, if granted, will enable Applicant to expand its farm an additional 3.36 acres.

23. The CGA consists of numerous farms typical of the one Applicant currently operates and seeks to expand. Indeed, the legislature when enacting the Long Island Pine Barrens Maritime Reserve Act found that agriculture has been a dominant industry of the Pine

Barrens for more than 350 years. See ECL § 57-0105, ¶ 2. In fact, agriculture is so prevalent in the CGA that the Central Pine Barrens handbook provides that “agriculture” is not considered development, and therefore, cannot be regulated by the Commission. See ECL § 57-0107(13).

24. Further, according to historic aerial photographs, a large portion of the area Applicant requests to clear was previously cleared and apparently used for farmland.

25. Indeed, Applicant submits that to the best of its knowledge, it has, and will continue to, comply with best management practices as stated in the *Agricultural Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State, June 2007*. Further, the requested clearing, if approved, will leave an uncleared buffer between the Property and the residential area to the west.

26. Accordingly, the requested variance would not alter the essential character of the neighborhood or district as agriculture has been a mainstay in the Pine Barrens.

d. *The Hardship Has Not Been Self-Created*

27. Finally, the hardship has not been self-created. The vegetation currently existing in the Uncleared Area of the Property are native to the Pine Barrens. As set forth above, without clearance of this vegetation, Applicant cannot realize a reasonable rate of return.

**III. Conclusion**

28. Accordingly, Applicant respectfully submits that the standards set forth in NYS ECL § 57-0123(3)(b) and Town Law § 267-b have been met. Applicant respectfully requests that the requested variance authorizing the clearance of the designated 3.36 areas.

Melville, New York

Dated: April 5, 2022

/s/ Nicholas C. Rigano

Nicholas C. Rigano, Esq.

538 Broad Hollow Road, Suite 301

Melville, New York 11747

Tel: (631) 756-5900