



Central Pine Barrens Commission Meeting Agenda
Wednesday, November 15, 2023 at 2:00 pm
Brookhaven Town Hall
One Independence Hill
Farmingville, NY

1. **Administrative and Public Comment**
 - a. Public Comment
 - b. Minutes for 10/18/23 review (*approve*)
 - c. Draft 2024 Commission meeting schedule: (*approve*)
2. **Education and Science and Stewardship**
 - a. Education and Outreach Division: update (*Mr. Motz*)
 - b. Science and Stewardship Division: update (*Ms. Weigand*)
 - c. NYWIMA: update (*Ms. Drew*)
3. **Planning, Land Use and the Pine Barrens Credit Program**
 - a. Compliance and Enforcement Division: update (*Mr. Carbone*)
 - b. Land Use Division: update (*Ms. Hargrave*)
 - c. Credit Program
 - i. Program update (*Mr. Tverdy*)
 - ii. Draft resolution for Commission to approve hold harmless agreement for Suffolk County for the return of Credit Program funds to the Commission (*Ms. Jakobsen*)

Robert Calarco
Chairman

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

Core Preservation Area

- d. **CVE North America Solar at Westhampton Property Assoc.** Core Preservation Area Hardship Waiver Application and request to amend a conservation easement / east of Speonk Riverhead Road, Speonk / 900-276-3-1 and 2 / development of a 25 acre solar facility on a 91 acre sand mine in the CR 200 zoning district / *decision deadline 11/29/23 / request for extension (Ms. Hargrave)*
- e. **Ralph Schenk** Core Preservation Area Hardship Waiver Application / 900-311-1-9.3 / 247 Old Riverhead Road (CR 31), Westhampton / development of a 4,200 square foot (sf) addition on an existing commercial building with two 7,260 sf of existing buildings on 1.247 acres in the LI-40 zoning district / *decision deadline 2/6/24 / commence SEQRA and schedule public hearing (Ms. Hargrave)*
- f. **Taco Bell-Mangogna** Core Preservation Area Hardship Waiver Application / 451 County Road 111 at Chapman Boulevard, Manorville / 200-462-2-12.2 / development of a 2,624 square foot drive through restaurant where a 7,200 square foot restaurant (Michaelangelo's) is present on 1.6 acres in the J2 Business zoning district / hearing held on 7/19/23 and adjourned / *decision deadline 11/15/23 / draft decision (Ms. Hargrave)*

Compatible Growth Area

- g. **LIPA/PSEG-LI Medford Operations Center** Compatible Growth Area Development of Regional Significance and Hardship Waiver Application / 3351 NYS Route 112 (currently Country Fair amusements), Medford / 200-574-2-3.1, 16 and 17.1 / development of an operations center on 24.26 acres in the J2 Business and A1 Residence zoning districts / *decision deadline 12/8/23 / request for extension (Ms. Hargrave)*

4. **Public Hearing at 3:00 pm**

- a. **Gosselin** Core Preservation Area Hardship Waiver Application / 49 Old Westhampton Road, Northampton / 900-164-4-11 and 12 / demolition of 6,500 square feet of existing seasonal structures and construction of a 3,600 square foot year-round single-family residence on 1.73 acres on Wildwood Lake in the R-15 zoning district / *decision deadline 2/2/24 (Ms. Hargrave)*

5. **Public Comment**
6. **Closed Advisory Session** (if necessary)

624 Old Riverhead Road
Westhampton Beach, NY
11978

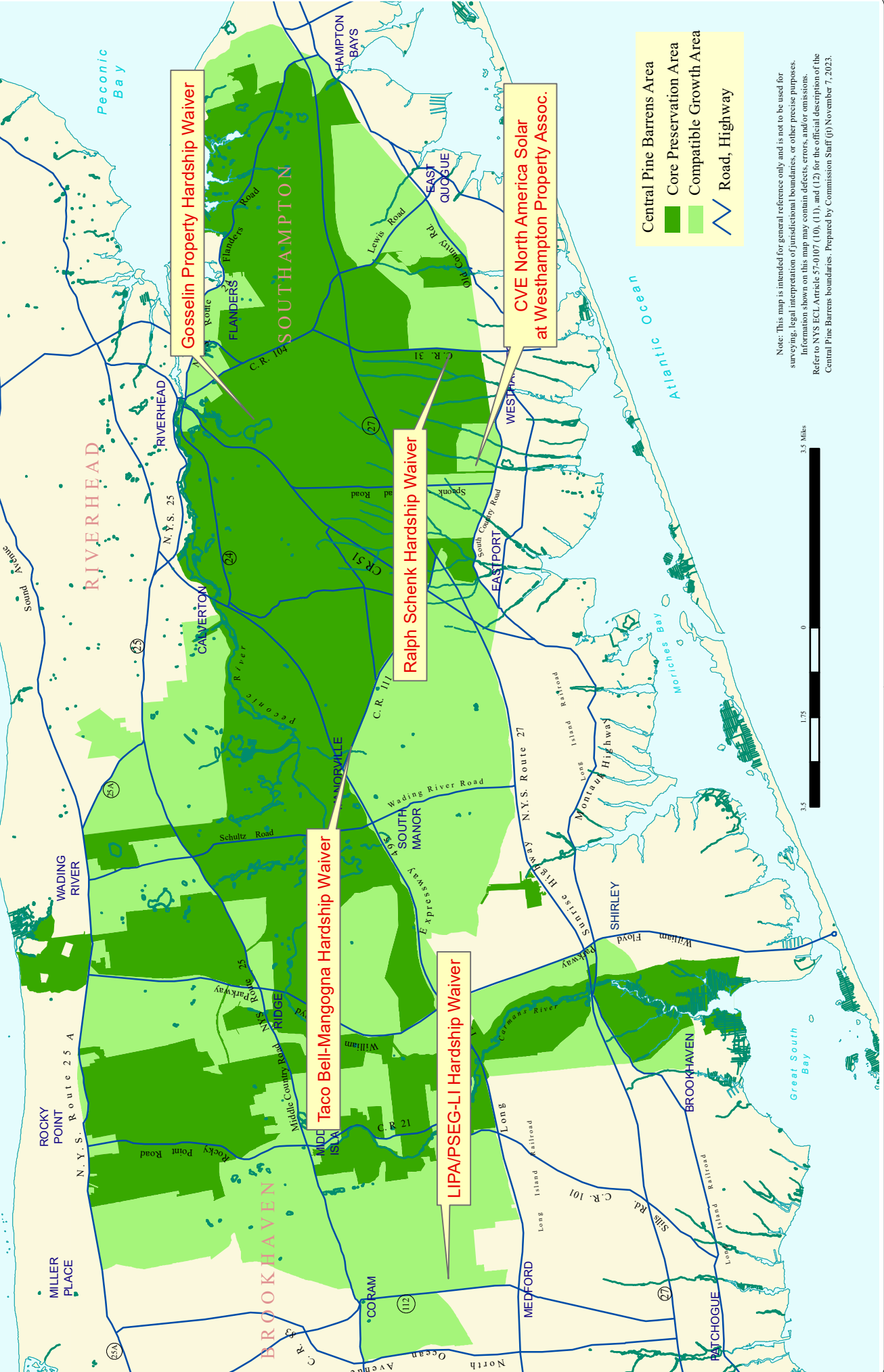
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www.pb.state.ny.us

Next Commission Meeting, Wednesday, December 20, 2023 at 2:00 pm, Riverhead Town Hall
For meeting information visit <https://pb.state.ny.us/>

SITES FOR DISCUSSION AT
CENTRAL PINE BARRENS COMMISSION MEETING OF
November 15, 2023



Long Island Sound



Gosselin Property Hardship Waiver

Ralph Schenk Hardship Waiver

Taco Bell-Mangogna Hardship Waiver

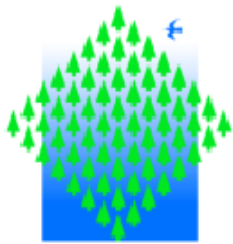
LIPA/PSEG-LI Hardship Waiver

CVE North America Solar
at Westhampton Property Assoc.

- Central Pine Barrens Area
- Core Preservation Area
- Compatible Growth Area
- Road, Highway

Note: This map is intended for general reference only and is not to be used for surveying, legal interpretation of jurisdictional boundaries, or other precise purposes. Information shown on this map may contain defects, errors, and/or omissions. Refer to NYS ECL Article 57-0107 (10), (11), and (12) for the official description of the Central Pine Barrens boundaries. Prepared by Commission Staff (j) November 7, 2023.





**CENTRAL
PINE
BARRENS**
JOINT
PLANNING
&
POLICY
COMMISSION

**Central Pine Barrens Commission Meeting Summary
Wednesday, October 18, 2023 (DRAFT)
Southampton Town Hall
116 Hampton Road
Southampton, NY 11968
2:00 pm**

Commission members present: Mr. Robert Calarco (New York State Governor's Representative), Ms. DiBrita and Ms. Pines (for Brookhaven), Ms. Hurley (for Riverhead), Mr. Schneiderman, Ms. Scherer and Mr. Shea (for Southampton) and Mr. Dale (for the Suffolk County Executive).

Others present: Commission and other agency staff members included Ms. Jakobsen, Mr. Milazzo, Mr. Carbone, Ms. Hargrave, Mr. Tverdy, Mr. Carbone, Mr. Steiger and Ms. Brown-Walton.

Mr. Schneiderman led the pledge to the flag and Mr. Calarco noted that all five Commission members present, there is a quorum.

Robert Calarco
Chairman

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

1. Administrative and Public Comment

a. Public Comment

Summary: No public comments were received.

b. Minutes for 9/20/23 review

Summary: **The motion was made by Mr. Dale and seconded by Ms. DiBrita to adopt the September 20, 2023 meeting minutes. The motion was approved by 5:0 vote.**

c. Draft resolution to ratify renewal of Commission's public officials management & employment practices liability insurance, umbrella policy and payment of premium

Summary: Ms. Jakobsen discussed the actual insurance policy expired on October 9, 2023, which required the Executive Director to bind the insurance prior to coming to the Commission for approval.

The motion was made by Mr. Schneiderman and seconded by Mr. Dale to approve the draft resolution to ratify the renewal of the Commission's public officials management & employment practices liability insurance, umbrella policy and give the Executive Director authorization to execute and documents and pay the premiums for the policy on behalf of the Commission. The motion was approved by 5:0 vote.

2. Education and Science and Stewardship

a. Draft resolution to approve the purchase of additional liability insurance for the Type 6 engine

Summary: Ms. Jakobsen discussed there is a correction on the draft resolution. The insurance is for \$4,000,000 in excess liability insurance coverage, which will cost approximately \$8,429 for the cost of adding the additional liability coverage. The cost of the additional liability coverage has been budgeted.

The motion was made by Mr. Schneiderman and seconded by Mr. Dale to approve the amended draft resolution to purchase additional liability insurance for the Type 6 engine. The motion was approved by 5:0 vote.

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

Core Preservation Area

a. Brookhaven Planning Board referral: Clancy Street Food Corp. / CR 111, Manorville / 200-462-2-5.1 / development of 3,293 square foot restaurant on 1.17 acres in the J2 Business zoning district

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Summary: Ms. Hargrave discussed the proposal is to build a restaurant on the project site of 1.167 acres of undeveloped and naturally vegetated parcel. It was approved for a hardship waiver in 1995, the project has changed and the draft letter states that a new application must be submitted for that reason.

The motion was made by Ms. DiBrita and seconded by Mr. Schneiderman to approve to send the draft response letter to the Brookhaven Planning Board regarding the Clancy Street Food Corp. The motion was approved by 5:0 vote.

- b. CVE North America Solar at Westhampton Property Assoc. Core Preservation Area Hardship Waiver Application / east of Speonk Riverhead Road, Speonk / 900-276-3-1 and 2 / development of 25 acre solar facility on a 91 acre sand mine in the CR 200 zoning district / decision deadline 12/9/23 / Commission staff report addendum, reopen period of time to supplement record

Summary: Mr. Milazzo discussed at the last meeting there was a public hearing on this application. It is a two-fold request, the first is to open and modify a conservation easement on an active sand mine and the second is a hardship to allow the installation of solar panels on the finished sand mine. Requesting the Commission's permission to reopen the record portion of the hearing to supplement the Commission's record with a document that was shared. It is a narrative that the staff has looked at the Commission's practice of opening conservation easement to allow a use that has not been contemplated. In staff's review, one property was found on which an easement was recorded and opened twice. If approved a copy of the addendum will be provided to the applicant so it can be addressed to the applicant's satisfaction. The matter can be addressed at the next meeting for a decision, SEQRA review or coordination.

Mr. Schneiderman asked if the easement was granted by the property owner to the Pine Barrens Commission. Mr. Milazzo responded that the easement that was opened twice, it was granted by the Nassau County Boy Scouts and the grantee in both cases is the Commission. In the Boy Scout instance, the Commission received the easement in exchange for pine barrens credits. In the Westhampton matter the applicant received a hardship. They offered the easement in exchange as part of their application.

The motion was made by Mr. Dale and seconded by Mr. Schneiderman to give permission to reopen the public record portion of the CVE North America Solar hearing to allow the addendum to be introduced and to allow the record to be opened for two weeks to allow the applicant to supplement as appropriate. The motion was approved by 5:0 vote.

- c. Gosselin Property Core Preservation Area Hardship Waiver Application / 49 Old Westhampton Road, Riverside / 900-164-4-11 and 12 / development of a single-family dwelling on 1.7 acres in the R-15 zoning district and removal of 7 existing structures.

Summary: For the record, Mr. Shea recused himself for the review of this application. Mr. Milazzo stated that as part of Mr. Shea's functions at the town, he may have to see this application for all appearances he asked to recuse himself and leave the room. Ms. Hargrave discussed that this is to schedule a public hearing. The application was submitted requesting an interpretation of the Plan and the law on whether this activity constitute development. Mr. Milazzo stated for the record if the application constitute development, then there will be a hearing. Mr. Schneiderman requested similar decisions to be provided to the Commission.

The motion was made by Mr. Schneiderman and seconded by Mr. Dale to approve scheduling a public hearing for November 15, 2023. The motion was approved by 5:0 vote.

Pine Barrens Credit Program

- d. Antonia Marsh / proposal to construct barns on 1.5 acres in the A1 Residence zoning district on property restricted by a conservation easement / 58 Sally Lane, Ridge / 200-352-1-19.1

Summary: Mr. Tverdy discussed the proposal to build barns on the subject property restricted by a conservation easement. Two scenarios were provided with the construction of the buildings. The grantor received 0.42 Pine Barrens Credits in exchange for the conservation easement.

The motion was made by Ms. DiBrita and seconded by Ms. Hurley to approve to send the draft response letter for the proposal. The motion was approved by 5:0 vote.

Compatible Growth Area

- e. *Brookhaven ZBA referral: Gary Walsh / Eastport Manor Road, 978.51 feet west of CR 51, Eastport / 200-593-2-3.2 / three lot substandard subdivision of 4.67 acres in the A2 Residence zoning district*

Summary: The motion was made by Ms. Di Brita and seconded by Mr. Schneiderman approve to send the draft referral letter regarding the Gary Walsh subdivision. The motion was approved by 5:0 vote.

- f. *Southampton Town SEQRA Coordination: Sunrise of Speonk / 1313 Speonk Riverhead Road, Speonk / 900-301-2-15 / development of 3,000 square foot special trade contractor building on 1.8 acres in the LI 40 zoning district*

Summary: The motion was made by Mr. Schneiderman and seconded by Mr. Dale approve to send the draft response letter regarding the Sunrise of Speonk referral. The motion was approved by 5:0 vote.

4. Public Hearing at 3:00 pm

- a. *Taco Bell-Mangogna Core Preservation Area Hardship Waiver Application / 451 County Road 111 at Chapman Boulevard, Manorville / 200-462-2-12.2 / development of a 2,624 square foot drive through restaurant where a 7,200 square foot restaurant (Michaelangelo's) is present on 1.6 acres in the J2 Business zoning district / hearing held on 7/19/23 and adjourned / decision deadline 11/15/23*

Summary: A stenographic transcript was prepared for the hearing.

- b. *LIPA/PSEG-LI Medford Operations Center Compatible Growth Area Hardship Waiver Application / 3351 NYS Route 112 (currently Country Fair amusements), Medford / 200-574-2-3.1, 16 and 17.1 / development of an operations center on 24.26 acres in the J2 Business and A1 Residence zoning districts / decision deadline 11/9/23*

Summary: A stenographic transcript was prepared for the hearing.

5. Public Comment

Summary: No public comments were received.

6. Closed Advisory Session

The motion was made by Mr. Schneiderman and seconded by Ms. Hurley to close the public portion of the meeting and to move into an advisory session for the purpose of discussing enforcement matters and obtaining legal advice from Commission counsel the Commission would not return to public session. The motion was approved by a 5:0 vote.

Meeting was adjourned at approximately 4:00 pm

Attachments (in order of discussion)

1. Draft Commission meeting summary for September 20, 2023
2. Final Commission meeting summary for September 20, 2023
3. Draft resolution for renewal of the Commission's public officials management & employment practices liability insurance and payment of premium dated October 18, 2023
4. Final resolution for renewal of the Commission's public officials management & employment practices liability insurance and payment of premium dated October 18, 2023
5. Draft resolution for the purchase of additional liability insurance for the Type 6 Fire Truck dated October 18, 2023
6. Final resolution for the purchase of additional liability insurance for the Type 6 Fire Truck dated October 18, 2023
7. Draft referral response letter to the Town of Brookhaven regarding Clancy Street Food Court dated October 18, 2023; Memo and revised submission from the Town of Brookhaven dated September 29, 2023
8. Final referral response letter to the Town of Brookhaven regarding Clancy Street Food Court dated October 18, 2023
9. Draft letter to NYSDEC and Southampton Town Planning Board regarding and hardship waiver application for CVE North America Solar at Westhampton Property Associates dated October 18, 2023; Addendum to the Draft Staff Report dated October 18, 2023
10. Final letter to NYSDEC and Southampton Town Planning Board regarding and hardship waiver application for CVE North America Solar at Westhampton Property Associates dated October 18, 2023
11. Letter and request for determination and core preservation hardship application from Nelson Pope Voorhis regarding Gosselin Property dated October 6, 2023
12. Draft letter to Antonia and Thomas Marsh proposal for barns dated October 18, 2023; letter and attachments from Antonia & Thomas Marsh dated October 4, 2023
13. Draft referral letter to the Town of Brookhaven regarding Gary Walsh three lot substandard subdivision dated October 18, 2023; Letter and maps from Town of Brookhaven dated September 25, 2023.
14. Final referral letter to the Town of Brookhaven on Gary Walsh, three-lot substandard subdivision dated October 18, 2023
15. Draft response letter for SEQRA Lead Agency Coordination Sunrise of Speonk Site Plan dated October 18, 2023; Town of Southampton memo with attachments dated October 4, 2023
16. Final response letter for SEQRA Lead Agency Coordination Sunrise of Speonk Site Plan dated October 18, 2023
17. Email, letter and supplement to the Taco Bell application for hardship permit from J. Lee Snead dated October 5, 2023
18. Draft staff report and maps for LIPA Medford Operations Center Compatible Growth Area Hardship Application dated October 18, 2023
19. Revised agenda distributed at the meeting dated October 18, 2023



Central Pine Barrens Commission
2024 Meeting Schedule
(DRAFT)

Wednesday, January 17, 2024 at 2:00 pm – **TBA**

Wednesday, February 21, 2024 at 2:00 pm – **TBA**

Wednesday, March 20, 2024 at 2:00 pm – **TBA**

Robert Calarco
Chair

Wednesday, April 17, 2024 at 2:00 pm – **TBA**

Yvette Aguiar
Member

Wednesday, May 15, 2024 at 2:00 pm – **TBA**

Steven Bellone
Member

Wednesday, June 26, 2024 at 2:00 pm – **TBA**
***Wednesday, June 19, 2024 - holiday**

Edward P. Romaine
Member

Wednesday, July 17, 2024 at 2:00 pm – **TBA**

Jay H. Schneiderman
Member

Wednesday, August 21, 2024 at 2:00 pm – **TBA**

Wednesday, September 18, 2024 at 2:00 pm – **TBA**

Wednesday, October 16, 2024 at 2:00 pm – **TBA**

Wednesday, November 20, 2024 at 2:00 pm – **TBA**

Wednesday, December 18, 2024 at 2:00 pm – **TBA**

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Environmental Outreach and Communications Division Update

November 2023

Submitted by Tim Motz, Environmental Outreach and Communications Coordinator

“A Day in the Life” Program

- **Our 13th annual “A Day in the Life” program, coordinated in conjunction with Brookhaven National Laboratory and the New York State DEC, concluded on Friday, Nov. 3.**
- **This year we held a total of 13 events, which is up five from last year. This is due to both recruiting schools that had stopped participating since the COVID pandemic and also taking a more direct role in managing the logistics of events that had not been officially part of our existing program.**
- **In all, nearly 2,000 students participated this year. Events were held from as far west as Mill River in Oceanside to the Peconic Estuary in the east.**
- **In addition to holding more events this year, we also saw school participation increase at several sites as well. For instance, nine schools participated in the Peconic Estuary event and the Nissequogue River event, in both cases up from six last year. The one location at which participation was down was Connetquot River, where school scheduling conflicts made it impossible for some to get out there.**
- **Overall, the events combined featured approximately three dozen schools joined by environmental experts from a wide range organizations who helped the students conduct their work, which includes studying a site’s physical data, surveying marine life and conducting chemical analyses of various parameters, among other important functions. The participation of these experts is key to the program’s success, and we can’t thank them enough.**
- **Now that the program is wrapped up for the season, the commission, along with our two primary partners in the program, the New York State DEC and Brookhaven National Laboratory, will get together to assess every aspect of the program to determine what we can improve.**
- **One primary goal of that review will be to centralize data collection methods to allow better quality control and the collection of vital information about each waterway studied. It is our goal that this information is ultimately reliable enough to**

serve as the catalyst for professional study of any water quality or related issues identified through the students' water monitoring.

Communications

- The recently completed NYWIMA academy received considerable media coverage generated by the commission.
- NBC News attended the academy to work on a story concerning the training of wildfire experts. This story is still in development. Interviews were conducted at the Academy with numerous participants.
- Additionally, the Riverhead News-Review and Islip Bulletin attended the Academy and published comprehensive stories about the academy, highlighting the work overseen by the commission in conjunction with many other agencies to help train the heroes of tomorrow.
- Also, we are facilitating a Newsday request for an update on the impact of the southern pine beetle in the Central Pine Barrens.

Barrens to Bay Summer Camp

- The budget for the 2024 Barrens to Bay Summer Camp has been approved by Friends of Wertheim, and, as has been the case in the past, we expect to be able to cover all our needs while still providing a healthy revenue surplus.

Miscellaneous

- Work is underway on the commission's 2023 Annual Report, which we plan to present to the board in January. As members may recall, last year we undertook a drastic revamping of the report with an eye toward making it more aesthetically pleasing and of interest to the general reader. We are building upon that approach with this year's report.

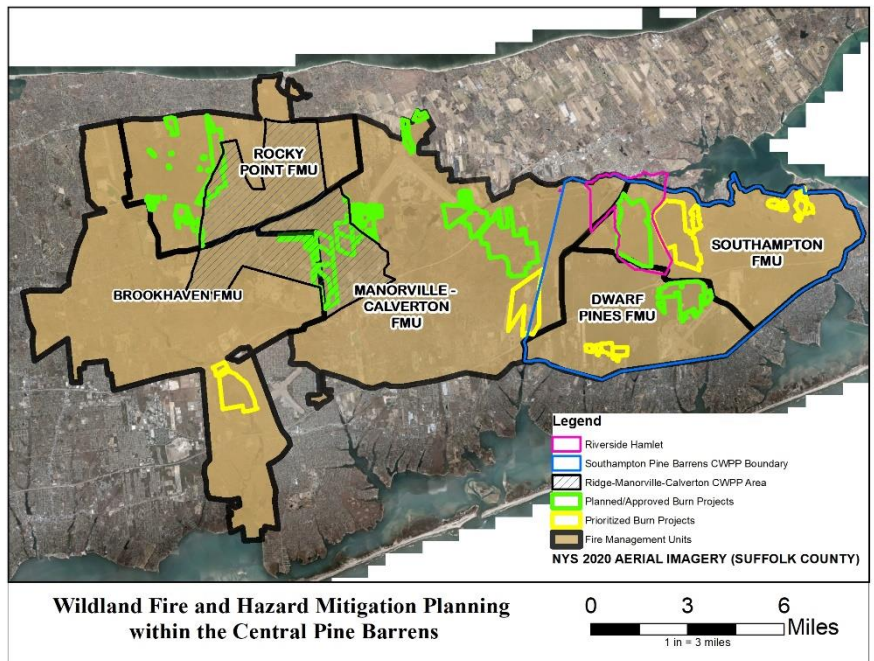


Administration

- **Staffing:** Michael Whittemore started as the new Ecologist for the Commission at the beginning of October and has been well integrated into his new role. Mike has already participated in numerous trainings including the completion of the Drone 107 Preparatory class. Job postings and announcements are being advanced to secure candidates for spring prescribed fire operations and field work. Provisional and annual performance reviews have been conducted for Division staff.

Prescribed Fire Program:

- *Administration:*
 - Discussions have been initiated with NYSDEC Forest Health about developing a 5 year and long-term stewardship management plan for the Central Pine Barrens to best leverage expertise, resources, and funding while achieving goals of reduced wildfire risk, ecosystem restoration and increased resiliency.
 - The new budget and workplan for the prescribed fire program is currently in internal review and then will be uploaded to grants gateway once approved by the Forest Health Unit of NYSDEC. Quarterly reports and vouchers are completed and waiting for contract execution.
 - Two Community Wildfire Defense Grant applications have been developed, complete with letters of support and supplemental maps and submitted in order to secure funding to plan for and reduce wildfire risk within the Central Pine Barrens as follows:
 - The Southampton Pine Barrens Community Wildfire Prevention Plan (CWPP) application would secure \$275,000 to develop a CWPP for wildfire risk reduction and ecosystem restoration within the Central Pine Barren areas occurring within the Town of Southampton.
 - The Ridge Manorville Calverton CWPP application would provide \$4.9 million in supportive funding for staff, contractors, equipment (purchase and rental) and education and outreach initiatives to advance planning and implementation of mechanical, prescribed fire and invasive species management on public lands; development of MOUs with NYS Office of Parks, Recreation, Historic Preservation, and Town of Brookhaven; help facilitate fuels mitigation on private properties, and increase awareness of pine barrens ecology and wildfire risk within the Ridge Manorville Calverton CWPP and the associated 1.5 mile buffer. Late winter notification is anticipated.



- *Memoranda of Understanding/Agreement Development:* The Suffolk County Department of Parks, Recreation and Historic Preservation MOU has recently been signed by the Commission and will be officially executed upon pending receipt of the fully signed document.

- *Equipment:*
 - Numerous small logistical tasks have been addressed to facilitate the inspection and delivery of the Type 6 Fire including finalizing tires, graphics, antennae mounts, radio procurement, NYS Inspection, insurance binding and drafting of the final paperwork for registration and plating. With all these tasks completed, Ms. Weigand and Ranger Bryan Gallagher will travel to Wildland Warehouse in New Jersey to conduct the final inspection and deliver the engine to the Westhampton Office. Once delivered, the final upfit is the installation of a communications radio which has already been procured.
- *Prescribed Burn Plan Development:*
 - Rocky Point East, Sarnoff West, and South of Currans burn plans have all been provided to NYSDEC Region 1 for uploading to iPac to facilitate USFWS review related to the impact of the northern long-eared bat. Next course of action relating to burn plan approval and/or implementation will be dependent on the comments/recommendations/decisions provided by USFWS.
 - The Dwarf Pine Barrens Prescribed Fire Enhancement Zone (633 acres w/11 burn units) remains in final internal review where after it will advance to NYSDEC for final review.
 - The Otis Pike/Upton Reserve Burn Unit (4252 acres across 23 burn blocks) in Otis Pike Pine Barrens State Forest (NYSDEC) and Upton Reserve (BNL) is in technical review with NYSDEC with BNL having already provided comments.
 - After approvals of both the Dwarf Pine Barrens and Otis Pike Burn plan, SEQRA review of these plans will be initiated.
- *Education and Outreach:*
 - Ms. Weigand attended the National Wildland Fire Strategy Workshop in Santa Fe, New Mexico and participated in multiple capacities including attendance of a two-day Community Wildfire Prevention Plan development training in anticipation of future CWPP plan development; presented on *Prescribed Fire in the Wildland Urban Landscape* focused on how honest communication has advanced during prescribed fire program development and implementation; and participated on a panel discussion addressing questions on prescribed fire, funding, cohesive strategy goals and other related topics. This opportunity provided a wealth of knowledge on national funding, risk reduction strategies and progressive programming related to wildfire reduction. This invaluable opportunity also strengthened connections and network especially with the USFS, Strategy and other wildland fire professionals.
 - Educational materials using wildland fire logo and consistent branding are being developed with the expertise of a graphic designer. Materials include a prescribed fire program brochure, display boards, mobile billboard trailers, stickers, t-shirts, notification templates and social media posts.
 - Short videos, website updates and social media content is being planned to help bolster a holistic education program that focuses on pine barrens ecology, forest health and management.
- *Prescribed Fire Preparation and Implementation:*
 - A meeting to discuss prescribed fire operations for the fall and winter is being coordinated and guidance on procedures for burn plan review and approval as it pertains to the northern long eared bat uplisting remain a focal point of discussion.
- *Training:* The Division participated in and helped support the NYWIMA in many capacities including providing staffing, permitting and equipment as follows:
 - **s211 -Wildfire Pumps:** Ms. Acampora and Mr. Whittemore successfully completed S211 – Portable Pump Operations providing them with key knowledge and skills on use and maintenance of portable and slip on pump units.
 - **s212- Wildland Saws:** Ms. Weigand secured group access permitting from Suffolk County Parks for the field saw trainings, in compliance with northern long eared bat regulations. Mr. Steigerwald served as assistant instructor and field mentor for Wildland Saws s212 and in doing so, was able to dually open his Chainsaw Faller 2 task book. This is the important and necessary professional development qualification for leadership on Commission led saw use related to SPB suppression and thinning as well as on western wildfire details.

- **UTV Operations:** Ms. Acampora and Mr. Steigerwald provided the UTV Polaris 500 for student use during the field training.
- **S219 – Firing:** Ron Bagan and Brian Bagozzi, seasonal prescribed fire staff, volunteered their time to provide holding and suppression support on the Type 7 UTV Engine during the ignitions field training, as coordinated by the Division.
- **UAS 107 Introduction and Prep Course:** Ms. Acampora served as assistant instructor in support of Mr. Carbone in hosting this new course, which was the first offering of this course at NYWIMA.
- **S130/190 Introduction to Wildland Fire:** Ms. Acampora served as an assistant field instructor for this introductory course which is necessary to participate on prescribed fires.



Ecological Research Initiatives:

- In association with LIISMA, the Commission continues to conduct Spotted Lantern Fly trapping monitoring using passive traps that have been installed at the Hampton Bays and Westhampton Transfer Stations. As of current, there has been no evidence or presence of spotted lantern fly in these areas. The traps will remain in place through fall. The furthest east known SLF detection was in Montauk.
- The Division is participating in the Long Island Mammal Survey to provide up to date occurrence of mammal species in the region. Currently, six game cameras have been set up in Sears Bellows, Hubbard and Birch Creek County Parks; Rocky Point Pine Barrens State Forest and Red Creek Park (TNC). These cameras have been strategically placed to detect occurrences of less common species. Cameras are maintained and data is reviewed and reported on a monthly basis. In the last six weeks there has been a diversity of common mammals including deer, possums, fox and raccoons as well other wildlife including a diversity of bird species.
- Fall tick monitoring of long-term forest health monitoring plots with a history of wildland fire has commenced to examine tick species distribution and abundance and the influence of wildland fire on populations. The sampled ticks will be provided to the SUNY ESF Fire Lab for analysis by Sam Gilvard, a PhD candidate under the advisement of Dr. Andrew Vander Yacht.



Southern Pine Beetle

- Statewide SPB Incident Command System staff, coordinated by NYSDEC's Forest Health Unit in support by the Division remain active in monitoring SPB outbreaks and dispersion. Surveying is advanced in core and compatible growth areas of the Central Pine Barrens with the help of DEC Forest Health staff. The use of Near map satellite imagery and known locations of infestations from 2022 have focused efforts on marking and recording the expansion of SPB infestations throughout the summer due to no suppression management from the uplisting of the northern long eared bat.
- Aerial Imagery from Near Map has facilitated early detection and monitoring of the presence of southern pine beetle within the Dwarf Pines on both the east and west side of CR 31, which are the first infestations detected in this globally rare ecosystem. The outbreaks have subsequently been confirmed by field staff who ground-truthed the suspect infestations. Field staff will be continuing to monitor the Dwarf Pines with Aerial Imagery and ground truth new infestations as they appear.
- Under the leadership of the USFS Northern and Southern Research Labs, the Commission continues to participate in an SPB early detection lure study to evaluate new lures in attracting SPB's. Trap catch through the season continues to confirm high southern pine beetle activity and extremely effective lure chemistry for trapping these little but mighty insects. A total of 12 funnel traps have been installed at Ridge Conservation Area, Manorville Hills County Park and Warbler Woods. These traps are checked bi-weekly and rotated each check to evaluate new lures and combinations to increase efficiency of trap catch success

and reduce bycatch. Recent trap checks reveal SPBs populations are present and less abundance as expected with end of the growing season, but still are very active. Monitoring will continue into fall/early winter until no detections are found.

- Central Pine Barrens in coordination with NYSDEC Forest Health are planning SPB prevention thinning and vegetation monitoring in the David A Sarnoff Preserve for the upcoming winter. Central Pine Barrens staff will be assisting in the training of new NYSDEC staff on proper chainsaw use and timber marking strategies to ensure target basal areas is being met as part of preventative thinning.
- Staff participated in a Newsday interview regarding SPB and current forest condition along with NYSDEC staff, helping to keep the public informed on the impact and management of this little but impactful forest pest.

Invasive Species Management:

- Noteworthy progress has been made in the eradication of Caper spurge (*Euphorbia lathrus*) at the Town of Hampton Bays Transfer Station and in East Quogue. Populations have been significantly reduced with only a few plants found at both sites. Removing these plants before seed set continues to facilitate eradication by preventing spread and exhausting the seed bank. Monitoring has ended for the field season and will be continuously surveyed in the growing season next year.

Restoration:

- Restoration at the Eastport encroachment (being represented by the NYS Attorney General's office) has advanced to Phase 2 – Monitoring and invasive species management as Phase I, including burying of woody and invasive plants, removal of debris, grading, fencing installation, fine grading and soil scarification, invasive species herbicide treatment and hydroseeding of native species has been conducted as prescribed.
- Lupine Population Expansion –Efforts to expand the population of common lupine along Currans Road in Rocky Point Pine Barrens State Forest advanced with the seeding of previously collected and bank seed along the western and northern fire breaks and roads. Seeding this time of year is anticipated to facilitate seed scarification and stratification necessary to break dormancy and advance germination and plant establishment this spring. The area has been flagged off with invasive species management and establishment being monitored this upcoming spring.
- Ms. Weigand served as Moderator for the Local Stories: Large Initiatives Public Partnerships Panel Discussion at the Celebrating Grasslands and Meadows Symposium coordinated by the Northshore Land Alliance. This informative event was hosted at Old Westbury Gardens with field trips to Hempstead Plains, allowed for the viewing of the fire effects on vegetation post spring prescribed fire.
- The Division as part of the Sandplain Grassland Network coordinated the program and outreach for the forthcoming Conserving, Managing & Restoring Grasslands for the Future - Sandplain Grassland Network Winter Zoom Conference on December 5th. All are welcomed to attend this free event (<https://conta.cc/49myG6Z>) which aims to connect, collaborate and share ideas to help us all better manage grasslands and their component biodiversity within the Atlantic Coastal Plain.
- Surveillance assistance continues to be provided in Hampton Bays/Flanders to help abate the frequent dumping that has been occurring in that location.





The New York Wildfire and Incident Management Academy (NYWIMA), ran from October 19 through October 27, 2023, concluded its 26 year of operations and has now provided training to more than 8,000 firefighters and emergency response personnel over its existence.

The Academy offered free training for Nassau and Suffolk County volunteer firefighters in Basic Firefighting and Wildfire Behavior and Fire Operations in the Urban Interface. Volunteers from 10 Fire Departments (Center Moriches, Cutchogue, East Moriches, Great River, Manorville, Mastic Beach, Mattituck, Plainview and Ridge) participated in this Basic Firefighting sessions.

Classes Offered:

- | | |
|---|--|
| FI-210 Wildland Fire Cause and Origin | I-300 Intermediate ICS |
| I-400 Advanced ICS | S-130/S190 Wildland Firefighter Training |
| S-130 Field Day | S-131 Firefighter Type 1 |
| S-211 Portable Pumps and Water Use | S-212 Wildfire Powersaws |
| S-215 Fire Operations in the Wildland Urban Interface | S-219 Firing Operations |
| UTV Course | UAS – Intro to UAS |
| UAS – FAA 107 Prep | |

In total, approximately 271 personnel participated in the 2023 Academy. Participants included 30 overhead staff members and 28 instructors from federal, state and local agencies. Of this total, 216 students were students/emergency responders representing 17 states. In addition, 4 firefighters from Canada participated in the Academy.

Resources:	Total
Resource	
Overhead	30
Instructors	28
Students	216
TOTAL	271



Agencies represented at NYWIMA: NYSIMT, NYSDEC, USFS, NH DNCR, Suffolk County Parks, Catskill Forest Association, Department of National Defense, Massachusetts DCR, The Nature Conservancy, Albany Pine Bush, NJFFS, USFWS, PADNCR, Rhode Island DEM, NPS, and multiple volunteer Fire Departments participated in the 2023 Academy.



Robert Calarco
Chair

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

Compliance and Enforcement Division Report September - November 2023 Prepared by CAED Chief Enforcement Officer Frank Carbone

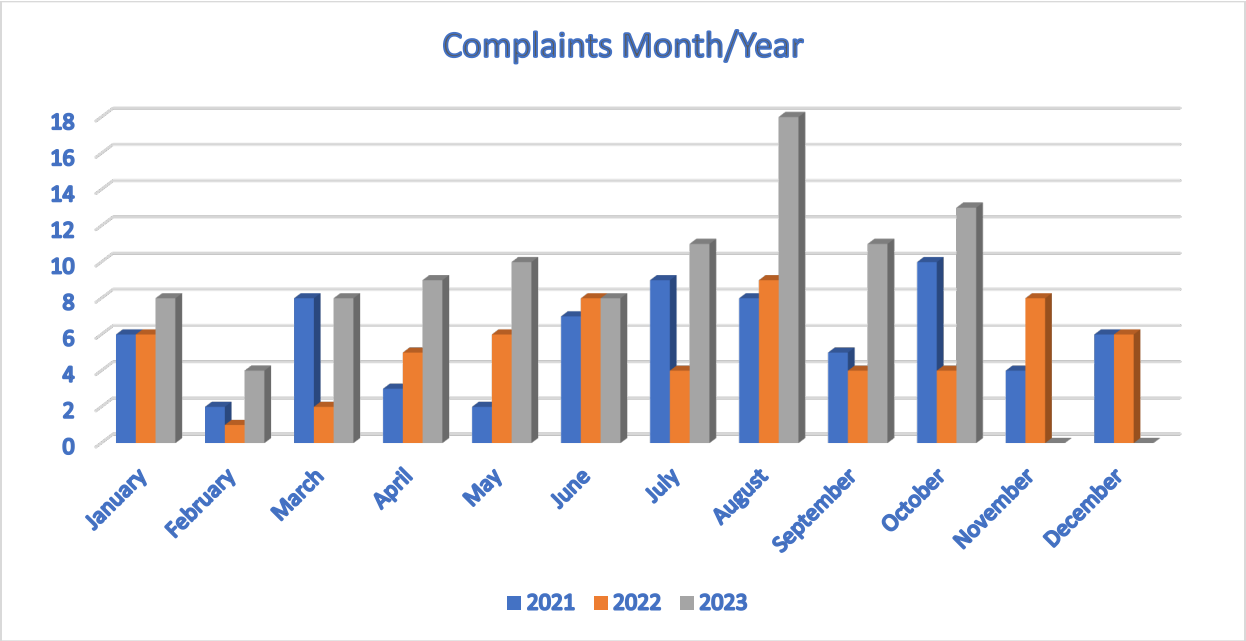
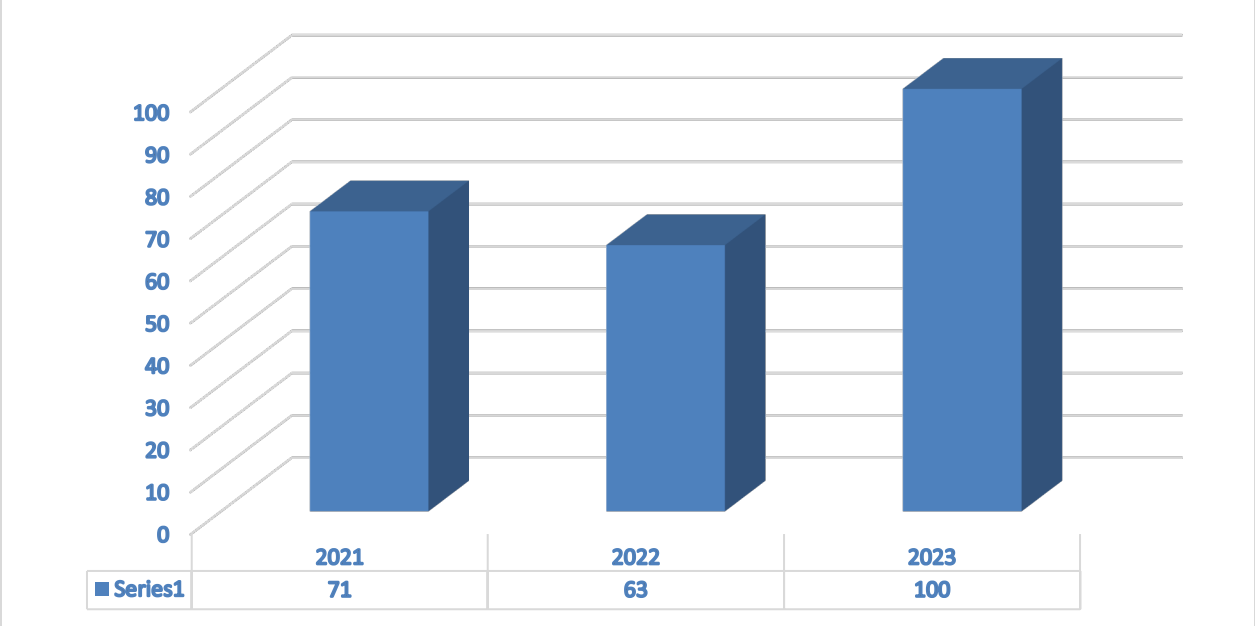
- We received twenty-seven (22) complaints this period for primarily clearing and dumping.
- Fifteen confirmed dumping violations documented on surveillance cameras. Dispositions are pending.
- The GIS complaint tracking system has been updated to include complaint numbers, better sorting options and enhanced search capabilities.
- UAS (Unmanned Aircraft Systems) Part 107 training was provided in two classes in October for NYWIMA. One consisting of an overview of UAS and the other will be a FAA 107 prep course. Students in both classes gave excellent reviews. We did conduct another in-house 107 Prep course for our newly hired ecologist and two SC Deputies. We are planning the hands-on portion of our in-house training for the three staff members, two members from Science and Stewardship and one from Compliance and Enforcement. The two new drones which were delivered recently have been registered and have been used in ariel survey of the Afatato property..



624 Old Riverhead Road
Westhampton Beach, NY
11978

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

Incident Statistics - Reporting Period 2021 - 11/01/23			
Year	2021	2022	2023
Intake			
Sent by Agency to Commission	11	14	15
Discovered by Commission Staff	48	41	79
Called in by Individual to Commission	12	8	6
Total Incidents Reported	71	63	100
Location of Incident			
Brookhaven	54	46	55
Southampton	10	17	40
Riverhead	6	0	5
Occurring on Public Land	26	21	57
Occurring on Private Land	35	22	18
Occurring on Public & Private Land	10	20	25
Core	35	38	63
Compatible Growth Area (CGA)	18	13	29
Core & CGA	0	1	1
Outside CPBA	18	12	7
Nature of Incident*			
Clearing/Encroachment	24	24	17
Structures	0	1	2
Dumping	35	35	79
Mining	1	0	0
Hunting	1	0	1
ATV	2	1	0
Other	8	4	1
<i>*Note-some incidents involve more than one land use issue</i>			
Referrals*			
Sent to Town	17	20	6
Sent to County	17	12	32
Sent to State	16	22	29
Commission	21	15	8
Sent to AG	0	1	0
Other	0	5	21
<i>*Note-some incidents are sent to multiple agencies</i>			
Status			
Founded	60	50	98
Unfounded	11	13	2
Open	39	18	49
Closed	32	45	51
Inspections			
Conservation Easement Inspections		1	0
Development project inspections		2	0



Central Pine Barrens Joint Planning and Policy Commission

Land Use Division Bi-Monthly Update for the Meeting of Wednesday, November 15, 2023

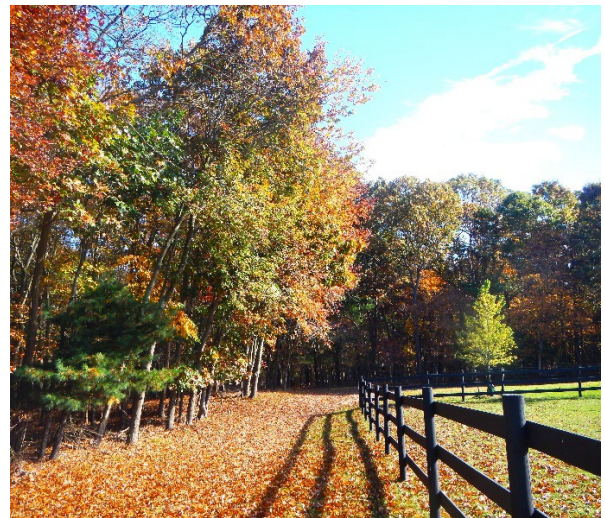
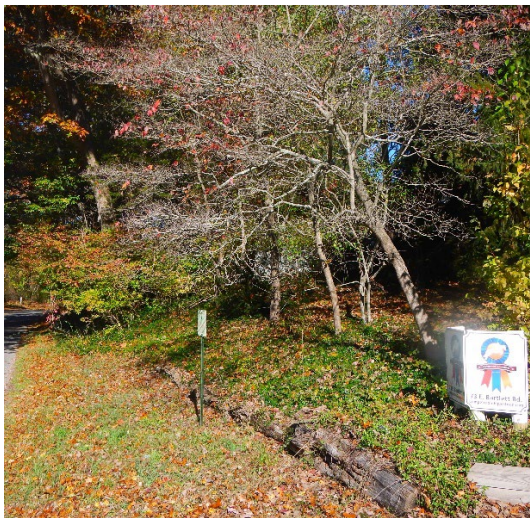
Action	Central Pine Barrens Location		
Municipality	Brookhaven Town	Riverhead Town	Southampton Town
<p>Applications and Requests for Determination of Jurisdiction</p>	<ul style="list-style-type: none"> LIPA PSEG Medford Operations facility CGA Hardship Application. Public hearing 10/18/23. (CGA) NY Cancer & Blood Specialists Core Hardship Application, Ridge. Expand parking lot for commercial use. Extension to 12/20/23 (Core) Taco Bell at CR 111 Core Hardship Application. Public hearing 10/18/23. (Core) 	<p>Venezia Square CGA Development of Regional Significance, Wading River. Development of 37,000 square feet of commercial uses on 6.34 acres. Public hearing 4/19/23. (CGA)</p>	<ul style="list-style-type: none"> CVE Solar Core Hardship Application at Westhampton Property Associates. Lease 25 acres of a 91 acre sand mine to develop solar facility. Public hearing 9/20/23. (Core) Gosselin Core Hardship Application. Demolition of 6,500 square feet of seasonal structures and construction of 3,600 sf single-family residence on 1.73 acres. Public hearing 11/15/23. (Core)
<p>SEQRA Coordination, referrals, inquiries and activities</p>	<p align="center">-</p>	<p align="center">-</p>	<ul style="list-style-type: none"> 4 Old Country Road, LLC. NYSDEC Part 360 Permit, waiting for amended application. (Core) Ralph Schenk Core Hardship Application, CR 31, Westhampton. Development of 4,200 square foot warehouse on 1.3 acres. Schedule public hearing. (Core)
<p>Division Activity, Regional Projects and Participation</p>	<ul style="list-style-type: none"> Policy and Planning Manager, staff management, budget, voucher and related responsibilities. Review of land use development projects including Core and CGA Hardship waivers, SEQRA Coordination, interagency referrals, information requests, inquiries, requests for determination of jurisdiction review and research. Applications include development for commercial/industrial and mixed uses and other site plans, residential and non-residential subdivisions, Developments of Regional Significance, Assertions of Jurisdiction, zone changes and other development activities. Land use surveys and inspections for development projects. Technical support including FOIL requests, compliance and enforcement, Credit Program items, communications on land use matters, unauthorized development, clearing, encroachments in protected areas and regulated habitats. Collaborate and coordinate with other Commission divisions. Annual report contribution. USGS: review of potential groundwater resources study. Pine Barrens Interpretive Center research, feasibility and business plan. 		



Item 3.c. Pine Barrens Credit Program Report for November 15, 2023:

Activities in the Credit Program for 2023 included review of applications for Letters of Interpretation, Conservation Easements, Credit Program and FOIL requests management. Some specific work items include:

- Letters of Interpretation: 35 LOIs were issued and two parcels were inspected. Staff is following up on past LOIs for interest in the Program.
- Conservation Easements: Review and Monitoring
 - 13 easements were recently recorded, which generated 4.96 credits.
 - Eleven easements are currently in progress.
 - Research and review of activities on three easement properties for consistency with easement terms including reserved rights and covenants.
 - 50 easement properties were recently inspected.



- Pine Barrens Credits
 - Redeemed: 15.33 Credits have been redeemed in the Town of Brookhaven, Riverhead and Southampton.
 - Conveyed: 24.31 Credits have been conveyed in the in the Towns of Brookhaven, Riverhead and Southampton, the average price is \$101,806 per credit.
- Pine Barrens Credits Auction update: 0.65 credits have been purchased by the Commission. After four easements are recorded, another 2.2 credits will be purchased by the Commission.

Pine Barrens Credit Program Statistics Table: represents figures for the total and annual summary of 2023.

Easement Protected Lands and Pine Barrens Credits As of November 7, 2023								
	Brookhaven	2023	Riverhead	2023	Southampton	2023	Total	2023
Parcels	527	9	37	-	465	7	1029	16
Acreage	831.69	3.32	516.78	-	883.06	6.28	2231.53	9.6
Average parcel size	1.58	0.37	13.97	-	1.90	1.98	2.17	0.60
Credits generated	550.26	3.60	173.39	-	339.53	1.36	1063.18	4.96
Credits redeemed	422.97	6.31	143.05	0.80	189.26	8.22	755.28	15.33
Credits not redeemed	127.29	-2.71	30.34	-	150.27	-6.86	307.9	-10.37
Credits sold	602.89	7.9	238.29	0.20	299.22	16.21	1140.4	24.31
Total value of PBC transactions through this date	\$34,061,937	\$910,000	\$9,251,447	\$17,300	\$22,395,368	\$1,547,600	\$65,708,752	\$2,474,900
Average Credits value		\$115,190		\$86,500		\$95,472		\$101,806
Credits owned by the Clearinghouse	1.19		-		-		1.19	
# of Inspected CE Parcels	-	28	-	3	-	19	-	50
# of Installed CE Signs	134	-	18	-	92	-	244	0



SUFFOLK COUNTY COMPTROLLER

330 CENTER DRIVE RIVERHEAD, N.Y. 11901-3311

Telephone: (631) 852-1501 FAX (631) 852-1507

JOHN M. KENNEDY, JR.
COUNTY COMPTROLLER

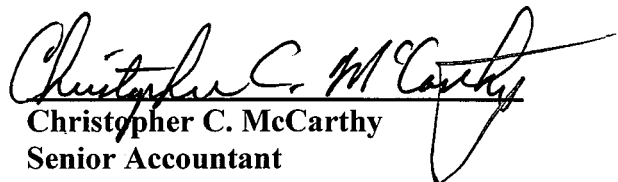
November 8th, 2023

**Central Pine Barrens Joint Planning and
Policy Commission
P.O. Box 587
Great River, N.Y. 11739-0587**

**Dear Pine Barrens Credit Clearinghouse
Board of Advisors:**

**Attached please find our financial report on the Pine Barrens Credit Program for the
month of October 2023. Thank you.**

Respectfully submitted,


**Christopher C. McCarthy
Senior Accountant**

Suffolk County Comptroller's Office The Pine Barrens Credit Program	
Balance as of December 31st, 2022	\$2,554,546.05
Additional Deposits	0.00
Interest (see below for details)	2,135.52
Disbursements	0.00
Balance as of October 31st, 2023	\$2,556,681.57

**Interest Earnings & Disbursements
For the Months of January - December 2023**

Interest Earnings

Premier MMA - Public Fund

January	223.97
February	195.99
March	217.01
April	196.02
May	231.04
June	210.06
July	217.08
August	217.10
September	203.11
October	224.14
November	0.00
December	0.00
	<u>\$2,135.52</u>

<u>Interest Period</u>	<u>APR</u>
01/01/23- 01/31/23	0.1000%
02/01/23- 02/28/23	0.1000%
03/01/23- 03/31/23	0.1000%
04/01/23- 04/30/23	0.1000%
05/01/23- 05/31/23	0.1000%
06/01/23- 06/30/23	0.1000%
07/01/23- 07/31/23	0.1000%
08/01/23- 08/31/23	0.1000%
09/01/23- 09/30/23	0.1000%
10/01/23- 10/31/23	0.1000%
11/01/23- 11/30/23	0.0000%
12/01/23- 12/31/23	0.0000%

Disbursements

None	<u>\$ -</u>
	<u>\$ -</u>

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel

625 Broadway, 14th Floor, Albany, New York 12233-1500

P: (518) 402-9185 | F: (518) 402-9018

www.dec.ny.gov

October 30, 2023

John M. Kennedy, Jr.
Suffolk County Comptroller
H. Lee Dennison Building
100 Veterans Memorial Highway
Hauppauge, NY 11788

Dear Mr. Kennedy:

It is my opinion, as the New York State Department of Environmental Conservation Natural Resource Damages Fund Manager, that in Spring 2006, a check for five million dollars (\$5,000,000.00) was deposited into the New York State Department of Environmental Conservation Natural Resource Damages Fund related to the Central Pine Barrens Clearinghouse.

I have confirmed this transaction with two colleagues in the New York State Department of Environmental Conservation Division of Management and Budget Services.

As the New York State Department of Environmental Conservation Natural Resource Damages Fund Manager, I believe that the Central Pine Barrens Joint Planning and Policy Commission has fulfilled its repayment obligations related to the Central Pine Barrens Clearinghouse. I do not believe that there are any additional funds owed to the New York State Department of Environmental Conservation Natural Resource Damages Fund related to the Central Pine Barrens Clearinghouse.

Please let me know if I can be of any more assistance related to this matter.

Sincerely,



Nancy Fish

CC: Robert Calarco, Chair of the Central Pine Barrens Joint Planning and Planning Commission
Dennis Brown, Suffolk County Attorney for the Suffolk County Comptroller



Department of
Environmental
Conservation

Judy Jakobsen, Executive Director of the Central Pine Barrens Joint Planning and Planning Commission

John Milazzo, Counsel for the Central Pine Barrens Joint Planning and Planning Commission

Caryn Bower, Associate Attorney and Section Chief of Natural Resource Damages for New York State Department of Environmental Conservation

Cindylou Dixon, Associate Attorney for New York State Department of Environmental Conservation

Erin Hovish, Associate Budget Analyst for New York State Department of Environmental Conservation

Jack Cicero, Associate Accountant for New York State Department of Environmental Conservation



David Gilmartin
Shareholder

Greenberg Traurig, LLP
2317 Montauk Hwy | Bridgehampton, NY 11932
T +1 631.994.2407 | F +1 516.706.9111
David.Gilmartin@gtlaw.com | www.gtlaw.com

November 6, 2023

Via Electronic Delivery

Central Pine Barrens Joint Planning and Policy Commission
624 Old Riverhead Road
Westhampton Beach, New York 11978

Re: Application of CVE North America
SCTM#: 900-276-3-1 and 2

Dear Commission:

We represent CVE North America in connection with the above referenced application.

At this time CVE requests a one month extension of the November 15, 2023 decision deadline to allow it to provide additional information to the Commission.

Thank you for your time and attention to this matter.

Sincerely,

/s/ David J. Gilmartin
David J. Gilmartin, Jr.

Cc: John Milazzo, Esq.
Steven Engelman

DJG/tn

CORE PRESERVATION AREA HARDSHIP APPLICATION



October 10, 2023

This application pertains to the property at 247 Old Riverhead Road., Westhampton, NY. It is a request to add a 100' x 42' addition to the southerly of the two existing buildings on the property. The addition will be a pre-engineered structure, the same as those that currently exist.

In 1997 the commission granted permission for a second building on this property subsequent to it being expanded due to the purchase of an abutting piece of property. Many factors are the same now as they were then. No clearing is necessary for this project and no environmental impact will be created by it. No change is needed to the accessway.

The current occupant of the afore mentioned building is Safeguard Films. They are primarily in the business of applying protective wraps to vehicles. They moved into this location in the Spring of this year (2023). Once in the building, they commenced extensive renovations to the inside of the building. Theirs is a high priced business and the work is done inside. Between, moving interior walls, insulating, sheet rocking, painting, flooring, remodeling the offices, extensive lighting necessary for the work and more, they have spent \$250,000.00.

The move from their former location was done to gain more space. However, once in my location, which has great exposure to the public, their business grew more than they could have foreseen. They now find that the 4500 square feet they occupy is insufficient.

Two issues come to play in this situation. The insufficient amount of light industry buildings in the Town of Southampton and the lack of large spaces. I have been talking to a perspective tenant for two years who says my space is too small but hasn't been able to find one big enough. The other is the thought of having a second location. Due to the nature of the business, that would cause the need to recreate each employee in the new location, doubling the payroll. That would not be necessary under one roof.

There is an obvious public desire for the services my tenant offers as is evident by the immediate growth since moving in. Services of this nature are far and few between.

Thank you for your consideration in this matter.

Ralph Schenk

A handwritten signature in black ink that reads "Ralph Schenk". The signature is written in a cursive, flowing style.

Owner

October 10, 2023

CORE PRESERVATION AREA HARDSHIP APPLICATION

This application pertains to the property at 247 Old Riverhead Road., Westhampton, NY. It is a request to add a 100' x 42' addition to the southerly building of the two existing buildings on the property. The addition will be a pre-engineered structure the same as those that currently exist. No clearing is necessary for this project and no environmental impact will be created by it.

The current occupant of the afore mentioned building is Safeguard Films. They are primarily in the business of applying protective wraps to vehicles. They moved into this location in the Spring on this year. As a result of now being in a highly trafficked and visible location their business has grown more then expected. They now find the 100' x 45' space they are in inadequate.

There is a shortage of industrial properties in this area and definitely ones that are 8700 square feet. I have had other companies looking for space larger than what I currently have. I am constantly being asked for more space.

In addition, my tenant has spent around \$250,000.00 in customizing the space that they currently occupy, so moving elsewhere would be a prohibitive financial hardship.

There is an obvious public desire for the services my tenant offers as is evident by the immediate growth since moving in. Services of this nature are far and few between.

Thank you for your consideration in this matter.



Ralph Schenk

Owner

RECEIVED

OCT 10 2023

*Central Pine Barrens
Joint Planning & Policy Commission*

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information		RECEIVED
Name of Action or Project: RALPH SCHENK		OCT 10 2023
Project Location (describe, and attach a location map): 247 OLD RIVERHEAD RD, WESTHAMPTON		Central Pine Barrens Joint Planning & Policy Commission
Brief Description of Proposed Action: PUT A 100'x42' ADDITION ON THE WEST SIDE OF THE EXISTING SOUTHERLY BUILDING IN AN ALL READY CLEARED AREA.		
Name of Applicant or Sponsor: RALPH SCHENK		Telephone: 516-380-6007
		E-Mail: ralphschenk88@gmail.com
Address: 426 MAIN ST.		
City/PO: WESTHAMPTON BEACH	State: NEW YORK	Zip Code: 11978
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO YES <input checked="" type="checkbox"/> <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: SOUTHAMPTON TOWN BUILDING DEPT.		NO YES <input type="checkbox"/> <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.357 acres 0 acres 1.357 acres
4. Check all land uses that occur on, are adjoining or near the proposed action: <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland		

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources?	NO	YES
If Yes,	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?	NO	YES
If Yes, explain the purpose and size of the impoundment: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?	NO	YES
If Yes, describe: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?	NO	YES
If Yes, describe: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: <u> RALPH SCHEDOK </u> Date: <u> 10/10/23 </u>		
Signature: <u> Ralph Schenk </u> Title: <u> OWNER </u>		

OWNER'S AFFIDAVIT

(Use this form if property is owned by an individual or a partnership)

STATE OF NEW YORK

COUNTY OF SUFFOLK)ss:

I being duly sworn, deposes RALPH SCHEUK

(Owner's Name(s))

and says that I/we reside at 426 MAIN ST., WESTHAMPTON BEACH, NY. 11978
(Owner's Address)

in the County of SUFFOLK State of NEW YORK and that

I/we am/are the owner in fee of the property located at 247 OLD RIVERHEAD RD., WESTHAMPTON NY
(Property Address)

which is also designated as Suffolk County Tax Map Number(s) _____

0900-3.11-01-9.3 and that I/we have been the

owner(s) of this property continuously since 1984, and that I/we
(Date)

have authorized RALPH SCHEUK to make a permit application to the
(Applicant's Name)

Central Pine Barrens Joint Planning and Policy Commission for this property. I/we make this Statement knowing that the Central Pine Barrens Joint Planning and Policy Commission will rely upon the truth of the information contained herein.

Ralph Scheuk
(Owner's Signature)

(2nd Owner's Signature)

RALPH SCHEUK
(Owner's Name - Please Print)

(2nd Owner's Name - Please Print)

10/10/23
(Date)

(Date)

RECEIVED

OCT 10 2023

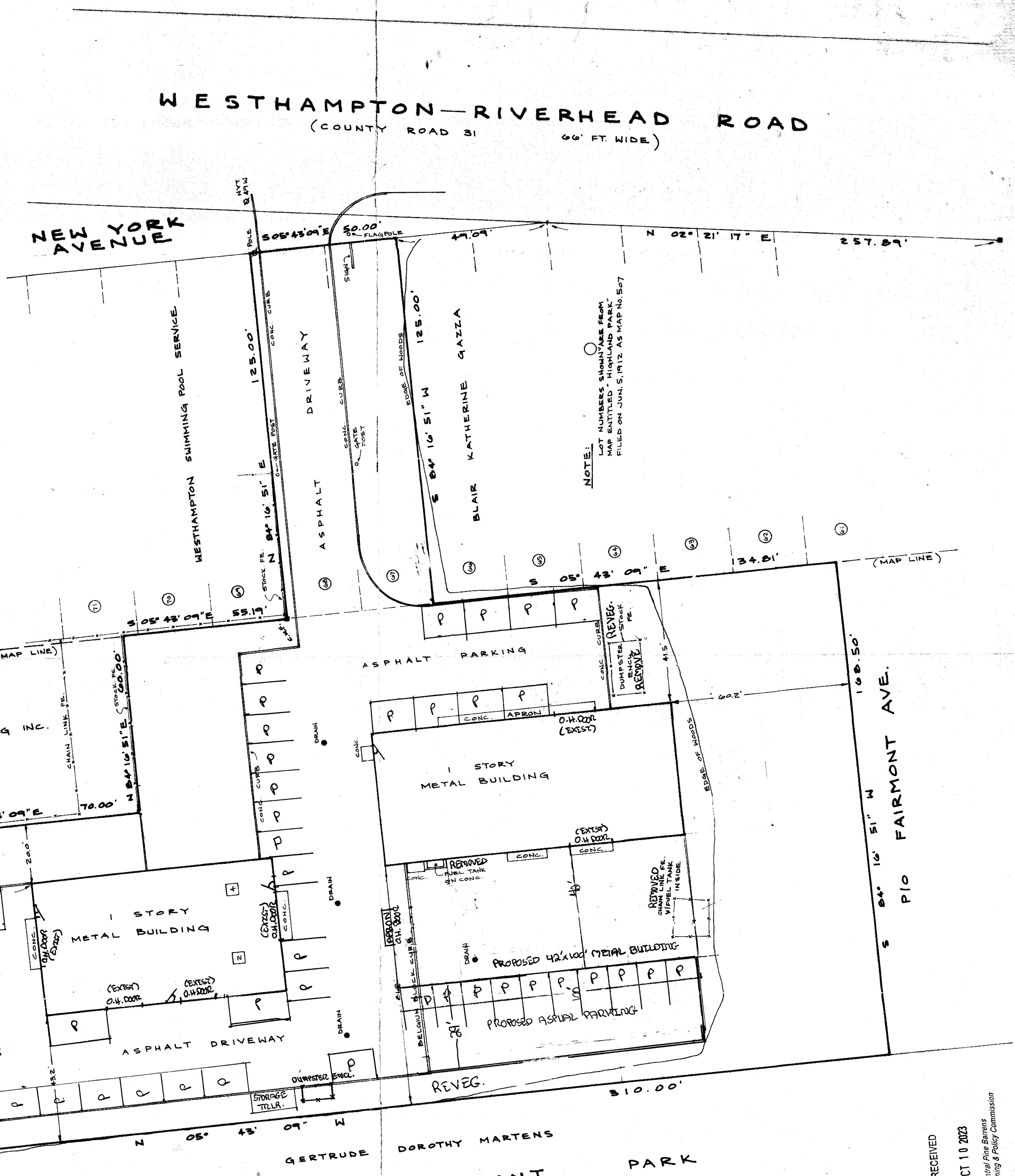
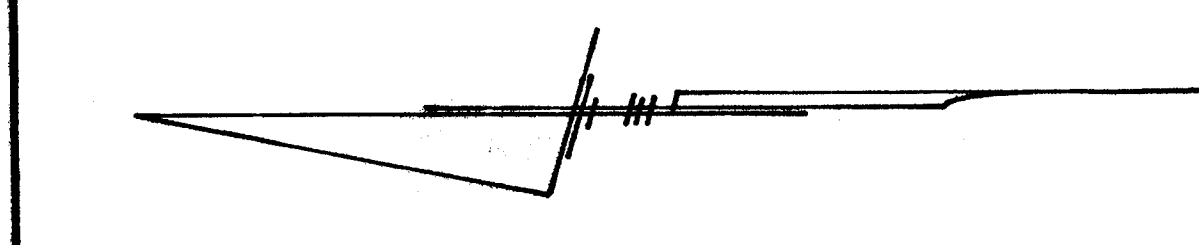
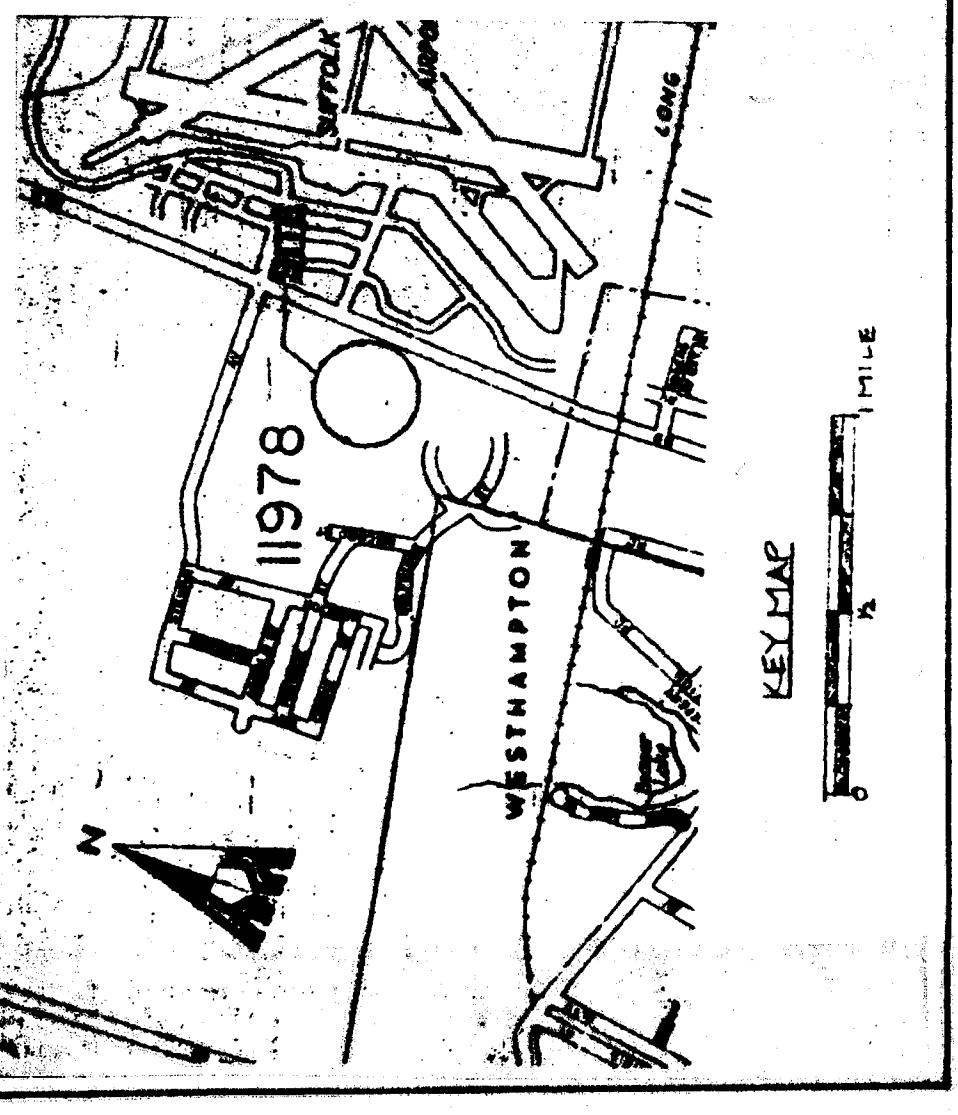
Central Pine Barrens
Joint Planning & Policy Commission

Sworn to before me this ____ day
of, 20__

Sworn to before me this ____ day
of, 20__

Notary

Notary



4113199 EXISTING LOT COVERAGE
 BUILDINGS = 8,197 SQ. FT.
 B, 197 SQ. FT. / 54,285 SQ. FT. X 100 = 15.17%
 REPAIRING = 38

FOR SITE DATA AND CALCULATIONS
 SEE SITE PLAN PREPARED BY S. L.
 MARESCA CONSULTING ENGINEER.

MAP OF PROPERTY
RALPH SCHENK
 SITUATE
WESTHAMPTON BEACH

TOWN OF SOUTHAMPTON — SUFFOLK COUNTY, N.Y.
 SURVEYED: SEPT. 25, 1997 — SCALE: 1" = 20'
 FINAL ON ADDITIONS: APR. 15, 1999

RECEIVED
 MAY 12 2023
 Central Pine Barrens Joint
 Planning & Policy Commission

CERTIFIED TO:
 RALPH SCHENK
 SUFFOLK COUNTY NATIONAL BANK
 CHICAGO TITLE INS. CO.

MAP OF BEACHMONT PARK
 FILED: NOV. 13, 1909
 MAP No. 437

RECEIVED
 OCT 10 2023
 Central Pine Barrens Joint
 Planning & Policy Commission

TAX MAP
 DISTRICT 0900
 SECTION 311
 LOT 43

RAYNOR MARCKS
 SURVEYOR, P.C.
 QUOQUE, N.Y.
 516-653-4066

Bk. 147, Pg. 40
 AREA: 54,285 SQ. FT.

D37-56



200ft

1,359,366.534 248,034.413 Feet



Central Pine Barrens Commission
 Meeting of November 15, 2023
 Draft Resolution
Taco Bell Mangogna
 Core Preservation Area Hardship Waiver
 451 County Road 111, Manorville, Town of Brookhaven
 SCTM # 200-462-2-12.002

Present:
 For the State of New York
 For the Suffolk County Executive
 Brookhaven Supervisor
 Riverhead Supervisor
 Southampton Supervisor

Robert Calarco
Chairman

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

I. The Project

Joanne Mangogna owns property located at 451 County Road in Manorville, in the Town of Brookhaven. Up until 2019, there was a restaurant operating on the property. The restaurant has ceased operations and Mangogna has been trying to sell the property. Taco Bell Manorville LLC (Taco) has signed a contract to buy the property. Taco's obligation to buy the property is conditioned on getting the Commission's approval of Taco's proposal to demolish the existing restaurant on the property and build a Taco Bell restaurant with a drive through. Taco was represented by its attorney J. Lee Snead in its application before the Commission. Taco requires the Commission's approval because the property is in the Core Preservation Area as defined in Article 57 of the Environmental Conservation Law and the project constitutes development.

The property contains 1.6 acres. The defunct restaurant had a 7,200 square foot building with a 70 space parking lot. Approximately 0.64 acres of the property is covered with natural area. The proposed Taco Bell will include a 2,624 square foot restaurant and parking lot with 25 parking spaces for vehicles. In addition to the 0.64 acres of natural area, Taco proposes to revegetate 0.59 acres of area that is currently devoid of natural vegetation. The proposed Taco Bell will have a drive through provided it receives the necessary change of zone to allow this use from the Town of Brookhaven.

II. The Act and the Commission

The New York State Legislature passed the Long Island Pine Barrens Protection Act (Act) and codified in Article 57 of the Environmental Conservation Law (ECL), which was signed into law on July 13, 1993. The Act, among other things, created the Central Pine Barrens Joint Planning and Policy Commission (Commission), to, among other things, oversee land use activities within the specially designated Central Pine Barrens Area.

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In furtherance of its mission and in compliance with the directives set forth in the Act, the Commission drafted the Central Pine Barrens Comprehensive Land Use Plan (the “Plan”), which was adopted on June 28, 1995.

ECL §57-0107 defines development to be the “performance of any building activity, . . . , the making of any material change in use or intensity of use of any structure or land. Without limitation the following uses shall be taken for the purposes of this article to involve development . . . (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.” ECL §57-0123 provides that “no application for development within the Central Pine Barrens area shall be approved by any municipality, or county or agency thereof or the [C]ommission . . . unless such approval or grant conforms to the provisions” of the Plan and Environmental Conservation Law Section. The Project constitutes development as defined in the Act.

III. The Project Site and Materials Submitted to the Commission

Taco provided to the Commission an owner’s affidavit from Mangogna, a Full Environmental Assessment Form Part I, analyzing the environmental impacts of its proposal, and an aerial with a site plan overlay prepared by H2M dated February 24, 2023.

On October 5, 2023, Taco provided supplemental material to the Commission. The items included an affidavit addressing the hardship criteria and an October 3 letter from Island Associates Real Estate Inc., discussing the lack of interest in a large capacity restaurant for catering, particularly due to the COVID pandemic, marketing efforts to lease or sell the property, and the lack of economic viability of the present use.

IV. Public Process

On July 19, 2023, the Commission held a public hearing on the Project at which the Commission reviewed the Staff Report and Exhibits prepared for the hearing and heard testimony and received exhibits from the Applicant. Subsequently, a transcript of the hearing was distributed to the Commission. The hearing was adjourned until October 18. The decision deadline was extended to November 15, 2023. During the hearing, Taco agreed to consider placing a covenant on the property preventing developing a second structure on the site.

V. The Study Area and State Historic Resources Determination

The Staff Report defined a Study Area which analyzed, in general, the land use and ownership of property within a one-half mile radius of the property. The Study Area is bisected by County Road 111, which is also the boundary of the Compatible Growth Area and Core Preservation Area. The Core is located on the north and east of County Road 111 and the Compatible Growth Area is on the south and west of the road. The Long Island Expressway cuts through the Study Area from east to west. Adjacent to the restaurant, to the north, is a residential structure and other structures in commercial use including a Starbucks drive through coffee shop. Directly across the street, in the CGA, is a 7-Eleven convenience store with a gas station and north of this gas station are commercial uses that include a shopping center and fast food restaurants including McDonald’s

and Wendy's. A second gas station is present in the Study Area at the southwest corner of the LIE and CR 111.

The analysis revealed that the dominant land uses in the Study Area along County Road 111 are commercial uses including restaurant and retail uses. A significant amount of natural public open space is present along the north and east side of County Road 111. Residential uses are present in the CGA south of the Project Site. The properties in the Core that are west of the site are in the A Residence 2 zoning category.

The Commission requested information from the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) on whether the project would impact State listed historic or pre-historic resources. OPRHP replied by letter dated June 27, 2023 that, “[i]t is the opinion of OPRHP 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.” Thus, the Project will not impact such resources.

VI. Other Required Approvals

The Project is an Unlisted Action pursuant to the State Environmental Quality Review Act (SEQRA). Pursuant to Chapter 4 of the Plan, the Commission commenced the SEQRA review of the project and sought to serve as the lead agent coordinating the review with Brookhaven Town, Suffolk County Department of Public Works, Suffolk County Planning Commission and Suffolk County Department of Health Services.

Brookhaven Town, by letter dated June 28, 2023, deferred Lead Agency to the Commission with no comments on the Project. Suffolk County Department of Public Works, by letter dated July 12, 2023, offered comments on referral including that an impact fee may be required and other requirements showing the removal of two existing aprons and ADA compliant sidewalks, driveways and ramps. The Suffolk County Planning Commission, by letter dated June 29, 2023, deferred lead agency to the Commission. The letter contained a statement, “Please note that pursuant to New York State General Municipal Law section 239 and Article XIV of the Suffolk County Administrative Code, prior to final approval, this action should be referred to the Suffolk County Planning Commission for review.”

The Suffolk County Department of Health Services, by letter dated July 10, 2023, deferred lead agency to the Commission. Its letter stated, “The SCDHS maintains jurisdiction over the final lot area, density and use. The Project will generate sanitary wastewater within the allowable limits for the Project Site in Groundwater Management Zone III and will utilize an alternative innovative treatment system. Suffolk County Health Department approval of the IA system will be required.”

The Project requires permits and/or approvals from other involved agencies including but not limited to the Town of Brookhaven for a change of zone, site plan, stormwater and building permits. The Suffolk County Department of Public Works indicated that the project requires detailed plans for curb cut modifications to County Road 111.

VII. History of the Project Site and Prior Commission Decisions

The restaurant on the property was developed prior to the Act, and in June 1998, a core hardship waiver request was proposed for two additions to the restaurant building and additional parking. An enforcement action occurred in August 1998 for commencing development without a hardship and the incident was settled with a fine and stipulation dated September 24, 1998. The stipulation required revegetation of the northern, rear portion of the property.

In 2002, a second waiver request was proposed for another expansion of the restaurant. The Commission stated in the March 2003 meeting minutes that the applicant had already been granted minimum relief and therefore the hardship was self-created and denied.

A review of prior Commission decision indicates that it has granted extraordinary hardship waivers to other projects in the Study Area. This includes its November 8, 1995 approval of the application of Clancy Street Food Corp. Clancy proposed a construction of 5,915 square foot restaurant. As with the Taco application, Clancy property had frontage and direct access to County Road 111. Clancy is located 1,400 feet from the Taco property.

On June 21, 2017, the Commission granted to Starbucks Manorville to convert a bank to a drive through coffee shop, Starbucks, which is located 1,280 feet from the Taco property. The change of zone for a drive through restaurant was similar to the Project.

VIII. Commission Review of the Act's Extraordinary Hardship Waiver Criteria and Applicant's Materials

In reviewing a Core Preservation Area Extraordinary Hardship Waiver application, the Commission is required to consider the criteria set forth in ECL §57-0121(10)(a), (c)(i), (ii), and (iii) to determine whether an applicant has established the existence of extraordinary hardship as distinguished from a mere inconvenience, whether the requested relief is consistent with the purposes, provisions of the Act, and if granted, would not result in a substantial impairment of the resources of the Central Pine Barrens area. An applicant demonstrates, based on specific facts, that the subject property does not have any beneficial use if used for its present use or developed as authorized by the provisions of this article, and that this inability to have a beneficial use results from unique circumstances peculiar to the subject property under certain conditions.

The Commission has considered the application, the Staff Report and Exhibits, transcripts of the hearings, and its prior decisions and finds that Taco has demonstrated that an extraordinary hardship exists.

The property and project are unique because it is developed with a defunct restaurant in an area that does not have a market for the type and size of the existing restaurant and proposed a smaller restaurant for which demand exists. A singular feature of the proposal is the building on the property will be reduced in size by 65%. Taco's real estate expert has opined that this portion of Manorville does not support a formal sit-down restaurant use. The area is not a food destination center and does not have a hamlet center. The subject property characteristics include being developed with a use that predates the Act and for which there is not a demand. This characteristic was not created by Taco but rather by the development of the area as a high traffic corridor. Taco

has not taken or failed to take an action with respect to the property. The land use patterns have changed in the area since the original restaurant on the property was developed. Other unique facets of the application include Taco's ability to demolish the existing building and construct the new building without disturbing or removing any existing natural vegetation on the property.

Taco has provided documentation that the current restaurant has been vacant and marketed for sale for four years. This demonstrates according to Taco, that there is not significant demand for a formal sit-down restaurant on the property. Taco also notes that no matter to whom the parcel was sold, the "building would probably have to come down." The lack of interest in an entity acquiring the parcel and re-establishing its uses as a formal restaurant is attributed to, in part the COVID pandemic, changing trends, presence in a pass-through area with no hamlet or destination center. According to Taco the existing restaurant is now "moribund." No potential buyers or lessees are interested in the site's present use. The Applicant is willing to purchase the site only if a waiver and change of zone are obtained for fast food drive through use.

Taco also asserts that current market and location does not support an economic use consistent with the property's J Business 2 zoning does not support a 200 seat sit down restaurant in this location.

The Project maintains the site's essential character and will not result in an increase in development in the Central Pine Barrens.

In considering the application, the Commission finds that the Waiver will not be materially detrimental to other properties due to the unique nature of the Project which involves removing a defunct use and constructing a smaller use and increasing the amount of natural vegetation on the property. Applicant has demonstrated the property is currently unused and no economic use is supported on the parcel. As a pass through travel corridor rather than destination hamlet, retail and food establishments including drive through national chain restaurants are present and appear viable. A Taco Bell fast food restaurant will not increase danger of fire or endanger public safety when compared the risks posed by a 200 seat restaurant. Taco's willingness to consider restricting additional development of the property is consistent with its recognition that its proposal is unique because it represents a 65% reduction in the size of the structure on the property.

The Waiver is not inconsistent with the purposes, objectives or the general spirit and intent of the Act because it permits the continuation of the use of a developed parcel while reducing the footprint of the use and reintroducing native vegetation to the parcel. The Project reuses a developed parcel and be doing so avoids new clearing in the Central Pine Barrens. By replacing an antique septage system with a modern system, groundwater impacts from the use on the property are anticipated to improve as compared to the use of the property's existing system.

IX. Commission Determinations

The Waiver is granted only for this specific project, a 2,624 square foot take out, drive through restaurant as per the site plan prepared by H2M dated February 24, 2023. No other uses or development of the site in the J5 or J6 zoning categories is permitted.

This Waiver does not allow development or redevelopment for uses in the same zoning category such as gas stations, hotels and laundromat facilities or any other permitted uses in the zoning categories of the new zoning if Brookhaven Town approves the proposed change of zone sought by the applicant.

A condition of approval requires the owner of the property to place a covenant and restriction on the property barring the construction of any other structure on the property. This Waiver expires if the Project is not built in five (5) years and a new application will be required even for the same project and site plan.

The Commission finds that Taco Bell Manorville LLC has demonstrated that the property and its proposal is unique for the reasons set forth above. It has further demonstrated that it suffers an extraordinary hardship due to conditions unique to the property and current conditions. The Commission grants a Waiver to Taco Bell authorizing the development a fast food restaurant on the Project Site with conditions.

The site is situated where there is an existing traffic light at the intersection of CR 111 and Chapman Boulevard. The Project is expected to generate more frequent visits overall as a drive through restaurant than a non-drive through and the presence of a traffic signal is expected to mitigate the potential increase in traffic as a result of the Project. Queuing lanes and curb cut modifications and designs are expected to accommodate traffic in a safe pattern in the Study Area.

The Commission finds the Project will not result in substantial impairment to the resources of the Core Preservation Area. An alternative innovative treatment system will be installed in the Project, replacing an outdated septic system, for wastewater treatment and expected reduced nitrogen concentration discharge to groundwater.

The present use is abandoned. The Applicant has attempted to attract a tenant with no success. The market for a restaurant use in this location is driven toward convenience such as a drive through rather than a traditional sit down restaurant. Lack of a town, hamlet setting or destination area, the Project is more compatible with the site in this pass through location.

The Commission finds that the Project is not inconsistent with the purposes and provisions of the Act, including but not limited to, the goals and objectives to “[p]reserve the functional integrity of the Pine Barrens ecosystem, protect the quality of surface water and groundwater, discourage piecemeal and scattered development, [to] accommodate development in a manner consistent with the long-term integrity of the Pine Barrens ecosystem and to ensure that the pattern of development is compact, efficient, and orderly.”

The Commission hereby determines the Hardship Waiver application, as submitted, satisfies the criteria for a Core Preservation Area Extraordinary Hardship Waiver pursuant to New York State ECL Article 57 §57-0121(10) for the reasons set forth in this resolution.

The Taco Bell Mangogna Core Preservation Area Extraordinary Hardship Waiver is approved, as per the Site Plan dated February 24, 2023 prepared by H2M, subject to conditions including:

1. The Waiver shall be valid for a period of five years from the date of approval.

2. The Applicant must obtain additional permits and approvals, as required by law, prior to commencement of activity related to the Project including Town of Brookhaven zone change, site plan, stormwater and building permits; Suffolk County Planning Commission review and approval; Suffolk County Department of Health Services review and approval; Suffolk County Department of Public Works permits and approvals, and any other approvals that apply to the Project.
3. Submit items to the Commission office, subject to review and approval, including:
 - a. Landscaping Plan with native plants, area, species, quantity of plantings and other relevant information. Protect existing trees in the rear of the property.
 - b. Protect the rear natural area during construction with snow fencing and remove when construction is complete. No structures may be placed in the natural (landscaped) area except for moveable picnic tables in a grass area(s).
 - c. Sign plan(s) with minimal lighting and signage that is minimal and in keeping with the character of the Central Pine Barrens in its design, height, color(s) and material.
 - d. Lighting plan with dark skies fixtures, compliant with dark skies regulations.
 - e. Declaration of Covenants and Restrictions barring additional development on the Project Site. Include this decision as an exhibit. Once approved, record in the Office of the Suffolk County Clerk
4. Within six months of completion of the Project and issuance of a Certificate of Occupancy, the Applicant shall submit an As-Built Survey for the Commission's file record.
5. The Waiver is granted only for this specific project, a 2,624 square foot take out, drive through restaurant as per the site plan dated February 24, 2023 prepared by H2M. No other uses or development or buildings on the site in the J5 or J6 categories are permitted without review and approval by the Commission.
6. If any changes occur in the Project the Applicant must notify the Commission and submit an amended application, subject to review and approval.

Taco Bell Mangogna Manorville Core Preservation Area Hardship

Town of Brookhaven; SCTM # 200-462-2-12.2

Decision to Approve Record of Motion:

Motion by:

Seconded by:

In Favor:

Opposed:

Abstention:

cc: Town of Brookhaven Planning and Environmental Department
Suffolk County Department of Health Services
Suffolk County Department to Public Works
Suffolk County Planning Commission

Lara Pomi-Urbat
Permitting Specialist Supervisor, PSEG Long Island

175 East Old Country Road
Hicksville, NY 11801
Lara.Pomi-Urbat@PSEG.com



November 3, 2023

Julie Hargrave
Policy and Planning Manager
Central Pine Barrens Joint Planning & Policy Commission
624 Old Riverhead Road
Westhampton Beach, NY 11978

Re: Extension Request
LIPA Medford Operations Center
Medford, Town of Brookhaven, Suffolk County, NY

Dear Ms. Hargrave:

PSEG Long Island, as Agent for the Long Island Lighting Company d/b/a LIPA, a wholly owned subsidiary of the Long Island Power Authority, is requesting an extension of the Commission's decision on the above referenced project to the December meeting. The request is being submitted in order for PSEG Long Island to be able to prepare and submit additional information the Commission requested.

If you have any questions, please contact me at (516) 254-6292. Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lara Pomi-Urbat".

Lara Pomi-Urbat
Permitting Specialist Supervisor, PSEG LI



Central Pine Barrens Commission Public Hearing

**For the Meeting of November 15, 2023
Brookhaven Town Hall**

**Gosselin, Wildwood Lake, Northampton
Core Preservation Area Hardship Waiver Application
SCTM # 900-164-4-11 and 12**

List of Staff Report Exhibits

Robert Calarco
Chairman

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

- A. Draft Staff Report
- B. Aerial of the project site and surrounding area
- C. Building Permit Survey prepared by Young and Young last dated October 25, 2023
- D. Photographs of the project site
- E. Study Area map
- F. Applicant's petition
- G. Decision on Remittal Henry Dittmer (2018)
- H. Core hardship approvals summary
- I. Core hardship denials summary
- J. Interpretation request dated October 5, 2023 from O'Shea, Marcincuk & Bruyn, LLP
- K. Certificate of Occupancy No. C13596, dated July 26, 1990
- L. Construction drawing Gosselin Residence dated March 23, 2023 prepared by Oyster Bay Drafting

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Draft Staff Report
CENTRAL PINE BARRENS JOINT PLANNING & POLICY COMMISSION
for the Commission meeting of November 15, 2023
Brookhaven Town Hall

PROJECT NAME: Gosselin Property
Core Preservation Area Extraordinary Hardship Waiver

APPLICATION TIMELINE:

- 10/6/23 Received application
- 10/18/23 Scheduled public hearing
- 11/15/23 Public hearing
- 2/2/24 Decision deadline

OWNER/APPLICANT: Jason P. Gosselin

REPRESENTATIVES: Wayne Bruyn, attorney, and Charles Voorhis, Nelson & Pope

PROJECT SITE LOCATION: 49 Old Westhampton Road, Wildwood Lake, Northampton

SUFFOLK COUNTY TAX MAP #: 900-164-4-11 and 12

PROJECT SITE AREA: 1.73 acres

ZONING DISTRICT: Residence 15 Zoning District (15,000 square foot min. lot area)

This staff report is Exhibit A.

EXISTING CONDITIONS

The 1.73 acre project site is located on the east side of Wildwood Lake, in the Core Preservation Area within the hamlet of Northampton and the Town of Southampton.

According to the application, the project site is developed with eight residential cottage structures that “remain in use today.” The Applicant’s family has used the property as a seasonal residence since the 1930s.

The Certificate of Occupancy #13596 dated July 26, 1990 lists “nine seasonal cottages, one shed with bathroom and one additional shed.” See Exhibit B for an aerial of the project site and surrounding area. The site contains approximately 0.98 acre of natural vegetation and approximately 0.75 acre is cleared.

APPLICANT REQUEST

The Applicant requests a Core Preservation Area Hardship Waiver exemption or an interpretation of “non-development” activity pursuant to ECL §57-0107(13). The proposal is to:

- 1) demolish seven cottages totaling 6,200 square feet, and
- 2) to construct a 3,600 square foot, two-story single-family dwelling

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The application states the project will not require clearing of natural pine barrens vegetation.

The project will remove six cesspools and drywells and install an innovative alternative treatment system for sanitary wastewater. One existing structure that is 375 square feet will remain for use as a shed for dry storage. See Exhibit C for the survey prepared by Young and Young last dated October 25, 2023.

CENTRAL PINE BARRENS STATUS

The proposal constitutes development activity pursuant to NYS Environmental Conservation Law §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;”

In regard to the site in the Core Preservation Area, Chapter 4 Section 4.5.1 Development located within the Core Preservation Area (“Core development”) of 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.”

SEQRA AND OTHER REQUIRED PERMITS AND APPROVALS

Pursuant to Chapter 4, Review Procedures, of the CLUP, Section 4.5.1.1, the Commission shall seek Lead Agency status, pursuant to SEQRA, for development proposed in the Core Preservation Area. The proposal is classified as a Type II Action under SEQRA. g

The project may require other permits and approvals including but not limited to:

- New York State Department of Environmental Conservation wetland permit and Wild Scenic & Recreational Rivers Permit.
- New York State Office of Parks, Recreation and Historic Preservation.
- Suffolk County Department of Health Services Article 6 conformance and approval.
- Town of Southampton Conservation Board wetland permit and building permit.

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SITE DESCRIPTION

This section contains a general description of the features on the project site including natural, scenic, and cultural resources. Data were excerpted from the application and other available resources.

Existing Condition and Land Use: Developed property with eight seasonal cottages. See Exhibit D for photographs of the project site area.

Vegetation: Freshwater wetland habitat, Wildwood Lake, and adjacent upland pine barrens habitat.

Rare, Endangered, & Threatened Species and Species of Concern: Refer the application to the NYSDEC on the presence/absence of Northern Long-eared Bat habitat. It may limit the window in which clearing of trees may occur on the property to within the months of December through February, with a no tree removal period from March to November. Currently, the current requirement implemented by NYSDEC as per USFWS:

“The proposed project is in the 3-mile buffer from an acoustically detected summer occurrence of Northern long-eared myotis. To avoid take no cutting of trees should be conducted between March 1st and November 30th.”

Wetlands: The project is subject to the wetland permit regulations and requirements of NYSDEC and the Town of Southampton.

Hydrology: Hydrogeologic Zone III, a deep recharge zone. Groundwater flow is generally in a northerly direction toward Peconic River. The highest groundwater elevation is 14 feet, as per the survey dated October 25, 2023.

Wild, Scenic and Recreational Rivers: The project site is within the jurisdictional boundary of the New York State Department of Environmental Conservation (NYSDEC) Wild, Scenic and Recreational Rivers Program. It will require a permit or jurisdictional determination from NYSDEC. Due to its proximity to the watershed of the Peconic River, it is contained in the Recreational Rivers designation, which states:

“Peconic River: (a) Approximately five and one-half miles from the Long Island railroad bridge between Connecticut and Edwards Avenue to Grangabel Park dam in Riverhead.” (b) Approximately two miles of the Little River (tributary T112-2) from and including Wildwood Lake to its confluence with the Peconic River.

Topography/Elevation: The project site contains:

- 0 to 10% grade slopes on 75%
- 10 to 15% slopes on 20%
- 15% slopes or greater on 5%

Soils: Swansea muck, 0 to 1 percent slopes, coastal lowland on 52%, Carver and Plymouth (CpC) soils, 3 to 15 percent slopes on 25%, and Deerfield loamy fine sand, 0 to 3 percent slopes (De) on 23%.

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Cultural/Archeological Resources: On July 18, 2023 the New York State Office of Parks, Recreation and Historic Preservation letter stated the “Based upon this review, it is the opinion of OPRHP 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.”

Scenic Resources: Volume II of the Central Pine Barrens Comprehensive Land Use Plan, Chapter 8: Scenic Resources, Sections 8.5.3 and 8.5.27, identifies Scenic Resources in the vicinity of the project site including:

8.5.3 Riverhead-Moriches Road (CR 63) from CR 51 north toward Riverhead

This segment provides glimpses of the open water of Wildwood Lake (looking northeasterly through easterly), the NYS Sarnoff Preserve and portions of Cranberry Bog County Nature Preserve.

8.5.27 Wildwood Lake south of Riverhead hamlet

A scenic, broad freshwater lake offering scenic views of, and from, the water. Portions of the lake's shoreline are developed residentially, with the southerly portion partly protected as county parkland and offering wide views from atop a steep shoreline bluff. Wildwood Lake is also visible from the CR 63 scenic road corridor (see above).

Surrounding Land Use and Zoning

Land Use

A study area of approximately ½-mile radius around the project site was defined to discuss the project site in the context of surrounding land use. The study area is generally bounded on the north by the Cranberry Bog County Park, on the east by the New York State David A. Sarnoff Pine Barrens State Forest, on the south by Hampton Hills Golf Course Road, and on the west by County Route 51. See Exhibit E for the study area map.

The study area contains residential and open space land uses. Low-density residential communities are situated on the north and south sides of the 64-acre freshwater lake known as Wildwood Lake. The project site is located in a residential community on the east side of Wildwood Lake.

The second most prevalent use in the study area is open space under the ownership of Suffolk County and the State of New York. Approximately 2,786 acres of Suffolk County open space is protected within a ½-mile of the project site including the 165-acre Cranberry Bog County Nature Preserve and other lands under County ownership. The New York State David A. Sarnoff Pine Barrens State Forest, a 2,700 acre Bird Conservation Area designated by New York State Department of Environmental Conservation, is situated on the east side of the study area.

The residential community on the west side of Wildwood Lake dates back to the 1960s or earlier. The Town of Southampton manages a public park with restroom facilities on the west side of the lake. A former bowling alley to be redeveloped as a church, is present on the west side of the lake and is the only non-residential use in the study area other than an abandoned gas station on CR 63.

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The study area contains 16 parcels that are protected with conservation easements in the Credit Program. A total of 6.1 Pine Barrens Credits were issued to protect the parcels.

Zoning

The project site is within the R15 zoning district, which requires a minimum lot area of 15,000 square feet. In addition to the R15 Zoning District, the study area also contains Residence 10 (10,000 square feet), Country Residence 200 (200,00 square foot lots), Open Space Conservation (OSC), and Highway Business (HB). The R10 and R15 zoning districts are located on the north and south sides of Wildwood Lake.

Protected open space is situated to the east of the project site in the OSC and CR 200 districts. The bowling alley, soon to be developed as a church, is the only commercial land use in the Study Area. It is located in the HB zoning district.

WATER RESOURCES

The project will remove multiple existing outdated cesspool systems and install an innovative alternative on site wastewater treatment system for sanitary sewage treatment.

PROJECT SITE HISTORY

A Letter of Interpretation application has not been received on this parcel.

CORE PRESERVATION AREA EXTRAORDINARY HARDSHIP WAIVER CRITERIA

The Applicant submitted a core hardship waiver application and hardship must be demonstrated pursuant to New York State Environmental Conservation Law (ECL) §57-0121(10). See Exhibit F for the Applicant's petition.

The applicable Core Hardship criteria, as enumerated in Article 57, Section 57-0121(10) are listed below.

“10. Any person, the state or a public corporation upon a showing of hardship caused by the provisions of subdivision eight of this section on development in the core preservation area, may apply to the commission for a permit exempting such applicant from such subdivision eight in connection with any proposed development in the core preservation area. Such application for an exemption pursuant to the demonstration of hardship within the core preservation area shall be approved only if the person satisfies the following conditions and extraordinary hardship or compelling public need is determined to have been established under the following standards or for development by the state or a public corporation or proposed for land owned by the state or a public corporation compelling public need is determined to have been established under the following standards:”

“(a) The particular physical surroundings, shape or topographical conditions of the specific property involved would result in an extraordinary hardship, as distinguished from a mere inconvenience, if the provisions of this act are literally enforced. A person shall be deemed to have established the existence of extraordinary hardship only if he or she demonstrates, based on specific facts, that the subject property does not have any beneficial use if used for its present use or developed as authorized by the provisions of

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this article, and that this inability to have a beneficial use results from unique circumstances peculiar to the subject property which:

- (i) Do not apply to or affect other property in the immediate vicinity;*
- (ii) Relate to or arise out of the characteristics of the subject property rather than the personal situation of the applicant; or*
- (iii) Are not the result of any action or inaction by the applicant or the owner or his or her predecessors in title including any transfer of contiguous lands which were in common ownership on or after June 1, 1993.”*

“(c) An application for a permit in the core preservation area shall be approved only if it is determined that the following additional standards also are met:

- (i) The granting of the permit will not be materially detrimental or injurious to other property or improvements in the area in which the subject property is located, increase the danger of fire, endanger public safety or result in substantial impairment of the resources of the core preservation area;*
- (ii) The waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of this article; or*
- (iii) The waiver is the minimum relief necessary to relieve the extraordinary hardship, which may include the granting of a residential development right to other lands in the compatible growth area that may be transferred or clustered to those lands to satisfy the compelling public need.”*

“Any waiver or exemption granted under the provisions of this part shall only be considered an exemption or waiver of the particular standard of this article, which the commission waived. It shall not constitute an approval of the entire development proposal. Nor shall it constitute a waiver from any requirements contained within any local, county or state law or ordinance.”

PRECEDENT

The Commission reserves the right to add supplemental information in the comment period after the hearing and after the testimony received at the public hearing.

Development

Pursuant to ECL §57-0107.13, “Development” shall mean the performance of any building activity. The commission determined, on July 19, 2023, the proposal constitutes development activity. Development in the core requires a hardship application, subject to discretionary decision by the Commission.

Non-development

The applicant asserts the proposal constitutes “nondevelopment” as defined in ECL §57-0107.13:

“Operations or uses do not constitute development” include:

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(iii) work for the maintenance, renewal, replacement, reconstruction, improvement, or alteration of any existing structure or additions to an existing residence or residential property owned by an association formed for the common interest in real property;

The Commission, in the recent past, has determined that building an entirely new structure or residence constitutes development and it does not constitute a “replacement” or non-development as asserted by the applicant in the current matter. Some precedent examples are provided below.

The Commission has determined development to be replacement involving the complete removal of a structure, the demolition of structures and construction of a new structure, or the construction of a new structure that is different in size from the former structure. Recent precedent shows the demolition of existing structures and construction of entirely new structures in the core requires a hardship.

An example of a core hardship to demolish structures and construct a new single structure was Kent Animal Shelter in the Core in the Town of Riverhead. It involved the demolition of 9 existing structures to build a single new facility. After the public hearing(s) on the project, Kent withdrew the hardship and revised the project to keep the existing structures and rebuild them in kind and in place consistent with the non-development provision in the Act. A non-development determination by the Commission occurred on March 17, 2021.

Taco Bell at Michaelangelo’s Manorville supports the “development” precedent that demolishing a structure (a restaurant) and constructing a new smaller building is development activity, as defined in the Act. (11/15/23)

The Commission’s decision history includes approvals and disapprovals of requests for waivers to build single-family residences where:

- 1) there was no prior development and
- 2) prior development existed such as existing structure(s) or foundation.

Each decision has specific circumstances that were considered by the Commission including the existing condition of the property, its location, surroundings and proposed conditions. See Exhibit H for the summary of core hardship approvals. See Exhibit I for the summary of core hardship denials.

Beneficial use

In a hardship matter, the Applicant is required to demonstrate, among other things, that the property does not have any beneficial use if used for its present use.

In the matter of Gosselin, the property has least 7 dwellings that are presently used seasonally. The owner seeks to 1) demolish the existing use and dwellings and 2) construct a new, upgraded year round dwelling.

In the case of Taco Bell Mangogna Core hardship, the site has an existing structure, a defunct full service restaurant that has ceased operations, the proposed project to demolish the existing structure and build a new, smaller fast food restaurant with a drive through that requires a change of zone was considered develop by the Commission and required the submittal of a hardship application. The change of zone requires a hardship in the core. The Applicant provided testimony that the existing defunct restaurant was no longer viable due to the unique situation and characteristics of

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the parcel with the existing defunct restaurant and its location along CR 111 corridor which caters to fast food and pass through commercial services rather than serving as a destination area that would support a full service restaurant.

Other matters requiring included the FKK, Inc. Core hardship application for a development project that involved demolishing an existing convenience store with gas station and the construction a new gas station and larger store. After the public hearing, the application was withdrawn with no final Commission decision made.

Kogel Brothers at East Bartlett Road Core hardship was a similar matter when a core hardship was required to construct a new house where one had been demolished. The Applicant demolished an existing dwelling, then applied for a core hardship to build a new dwelling. The “replacement” provision was not applied. The application was withdrawn and the property was acquired for preservation purposes. No final Commission decision was made.

Other core hardship denials to develop single-family residences included:

- Armand Gustave, Manorville (2016) (200-460-1-10)
- Gazza, Manorville (2020) (200-355-4-5 and 200-412-3-6)
- Henry Dittmer, Yaphank (2016) (200-529-5-35)
- Henry Dittmer, Ridge (2017) (denied without prejudice) (200-326-3-3)
- Trocchio (Antro Realty), Manorville (2016) (200-460-1-19 and 20)

The matters of Armand Gustave and Henry Dittmer Yaphank were undeveloped sites and on paper streets that would have had to be built for access to these parcels.

In Gazza, Manorville, (11/18/20), the Applicant did not identify precedential matters that supported his Application. The Project exceeded the minimum relief necessary to relieve hardship. The Applicant did not identify a decision for an extraordinary hardship exemption for a similar type of development proposal in the Study Area involving the construction of a single-family residence. The Applicant did not demonstrate the site had no beneficial use because it was purchased as a speculative real estate transaction after the Act was passed.

In Henry Dittmer, Ridge, (8/16/17), a core hardship application was submitted but no substantive information was provided for the Commission to make a decision. The matter was denied without prejudice.

In Trocchio, Manorville, (9/21/16), the property was undeveloped and insufficient proof was provided to demonstrate the existence of an extraordinary hardship. The project was not unique among other private property in the Study Area. The denial of the Project was consistent with other projects denied in the study area including IGHL and Armand Gustave c/o Peter Barron.

In an IGHL matter, (7/19/17), the site was occupied by an existing building, a former train station that was an historic structure. It was inadvertently demolished. IGHL proposed a core hardship for a group home facility. It was denied due to a self-created hardship and was purchased after the Act. It was determined to have a beneficial use since IGHL had acquired the property and its structure, with a beneficial use and the ability to be used for the non-development uses permitted in the Act, including redevelopment, reconstruction, or improvement, and then demolished the structure after the Act’s passage. The proposal was a self created hardship. It removed a beneficial use of the Project Site thereby producing a self-created hardship where one did not previously exist.

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See Commission Exhibit G for a copy of the “Decision on Remittal Henry Dittmer” (2018) for a discussion of other core hardships approvals and denials in the record.

The Applicant raised a precedent matter called David Bruhns on Sally Lane in Ridge (9/20/06). In Bruhns, the Applicant submitted a core hardship application. Bruhns requested the total removal and expansion of an existing dwelling. After the hearing, testimony and review of similar matters, in 2006, the Commission adopted a “non-development” determination based on the specific facts in that proposal including the dilapidated condition of the dwelling. Based on other Commission decision after Bruhn, indicates the Commission no longer adopts this interpretation??

The Applicant mentioned other precedent matters including:

- Starbucks Manorville Core Hardship (2017): approval of a change of zone for a drive through restaurant, no disturbance to natural vegetation
- 71 Lakeview Drive Core Hardship (2016): approval of the development of a single-family residence on a 10,000 square foot “infill” lot in a developed residential community.

In the matter of Starbucks, the building existed and was reused. The drive through use for Starbucks required a zone change. The change of zone constituted development in the core requiring a hardship.

The matter of 71 Lakeview (7/20/16) is not similar because it was an undeveloped property. It did not involve removal of existing structures or have the benefit of pre-existing structures or uses. In 71 Lakeview, the Applicant argued that the property should have been on the roadfront exemption list. It was not on the roadfront list and did not have the benefit of prior development or decisions.

SUMMARY/DISCUSSION ITEMS/ADDITIONAL INFORMATION REQUESTED

1. Applicant to address hardship criteria in the hearing record.
2. Will the tax map parcels be merged under this project, from two to one?
3. Confirm the site contains 0.98 acre of natural area and 0.75 acre is cleared and that the project will not clear or remove trees or other natural pine barrens vegetation.
4. Will the natural area including the wetland habitat be protected in a conservation easement? This would protect scenic views of and from Wildwood Lake.
5. If accessory structures(s) such as a swimming pool or tennis court are allowed, where will they occur and will the work involve clearing vegetation? Should a clearing limit be placed on the property? Clarify the town’s clearing limit in the Aquifer Protection Overlay District that may be applied to the property.
6. Permits pending include NYSDEC Wild Scenic and Recreational Rivers and Southampton Town regulated wetland habitats.
7. Coordinate the application with NYSDEC on the habitat protection requirements of the State and Federal listed Endangered Northern Long-eared Bat. Permits issued to this site should cover NLEB habitat protection and state as a condition: “The proposed project is in the 3-mile buffer from an acoustically detected summer occurrence of Northern long-eared myotis. To avoid take no cutting of trees should be conducted between March 1st and November 30th.”
8. Identify Town variances needed, if any.

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9. The Applicant must complete the Town Conservation Board review and process to obtain wetland permits and achieve requirements of the Board.
10. 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 any additional information for the public record.

STAFF EXHIBITS

- A. Draft Staff Report
- B. Aerial of the project site and surrounding area
- C. Applicant's Building Permit Survey prepared by Young and Young last dated October 25, 2023
- D. Staff photographs of the project site
- E. Study Area map
- F. Applicant's petition
- G. Commission "Decision on Remittal Henry Dittmer" (2018)
- H. Commission Core hardship approvals summary
- I. Commission Core hardship denials summary



**FIGURE 2
AERIAL MAP**

Sources: ESRI WMS; Suffolk County GIS 2016
Scale: 1 inch equals 100 feet

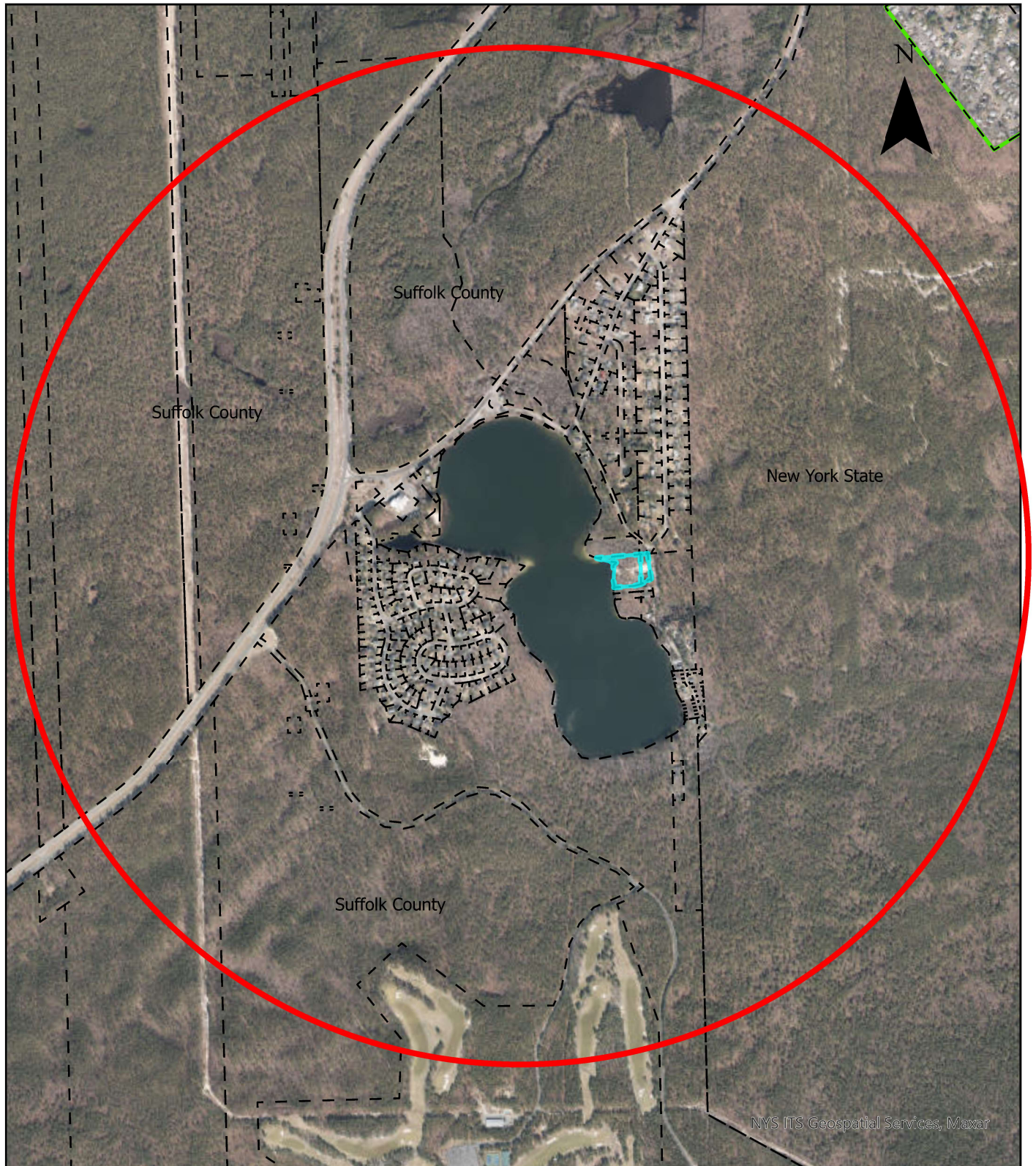
Pine Barrens
Hardship
Application/Part I EAF







Central Pine Barrens Commission
Gosselin Core Hardship Waiver Application
49 Old Westhampton Road, Northampton, SCTM #s 900-164-4-11 and 12
Public hearing November 15, 2023
Study Area Map



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

2.0 DEMONSTRATION OF EXTRAORDINARY HARDSHIP ECL ARTICLE 57-0121 (10) (a)

2.1 Extraordinary Hardship Demonstration

The following assessment outlines Section 57-0121(1) of the New York State ECL and the project's conformance to each of the applicable criteria. It is submitted that the applicants will experience an extraordinary hardship if the proposed redevelopment of the subject site is not permitted. The preclusion of beneficial use of the property stems from the provisions of Article 57 for lands in the CPA, particularly given the fact that the subject site is developed and was developed prior to the adoption of Article 57 as well as other hardships as demonstrated herein. The inability to have a beneficial use results from these unique circumstances particular to the subject property.

"10. Any person, the state or a public corporation upon showing of hardship caused by the provisions of subdivision eight of this section on development in the core preservation area, may apply to the commission for a permit exempting such applicant from such subdivision eight in connection with any proposed development in the core preservation area. Such application for an exemption pursuant to the demonstration of hardship within the core preservation area shall be approved only if the person satisfies the following conditions and extraordinary hardship or compelling public need is determined to have been established under the following standards for development by the state or a public corporation or proposed for land owned by the state or a public corporation compelling public need is determined to have been established under the following standards:

- (a) *The particular physical surroundings, shape or topographical conditions of the specific property involved would result in an extraordinary hardship, as distinguished from a mere inconvenience, if the provisions of this act are literally enforced. An applicant shall be deemed to have established the existence of extraordinary hardship only if he demonstrates, based on specific facts, that the subject property does not have any beneficial use if used for its present use or developed as authorized by the provisions of this article, ...*

The hardship is based on the physical surroundings of the property that limit the ability to function based on today's use of the cottages. The subject building has operated as a seasonal multi-family residential property since the 1930s, predating the CLUP and Article 57. The CPA was established in the mid-1990s as a result of the Pine Barrens Act. The placement of the CPA boundary including the subject property foreclosed the ability of the current property owners to continue use of the property for their own personal use, which creates a hardship.

Although the cottages served the owners' needs over the years, they are no longer suitable for the applicants, as they have exceeded their natural lifespans, the configuration is not suitable for single-family use, and the applicants are unable to accommodate short-term use. The cottages were built more than 80 years ago and were intended for seasonal use, and generally do not meet the needs of modern families (e.g., lack of insulation, inefficient heating in winter, insufficient cooling in summer, lack of laundry facilities, small kitchen and bathroom facilities, etc.). Because the cottages require significant and costly maintenance and have far exceeded their life span, the Applicants prefer to remove them and construct a modern and efficient home that suits their needs. None of the present cottages are large enough for the purpose of occupancy solely by the Applicants, as the configuration of cottages was well-suited for couples and small families seeking a seasonal vacation experience with minimal amenities. Given the age of the cottages, that use requires a constant presence on the property by an owner capable of providing ongoing maintenance.

The hardship is not a mere inconvenience, it is a necessity to enable the property owners to continue use of the property. The property has been in Applicants' family for more than eighty years. Apart from the sentimental value of an heirloom property, this property is uniquely situated on Wildwood Lake. There are no comparable properties available to Applicants. Denying the application—and thereby forcing applicants to utilize residential structures that have long outlived their natural lifespan and do not meet their current needs—is effectively a prohibition on the continued use of this property.

If Applicants are unable to build their new home, the only other beneficial use for the property would be to replace the existing seven structures utilizing the same footprint. Replacing the cottages in the same footprint would create economic value in the short-term rental market through such platforms as AirBnB and VRBO—perhaps substantial value—but such use does not suit Applicants' needs. Such use would also be expected to have a greater impact as a result of the total square footage occupied, number of occupants and resultant density derived impacts related to sanitary waste, site activity, vehicular use, and other impacts, which would be spread across a larger area of the site. The Applicant seeks to consolidate the activities on-site and the only desire is to use the property for their own personal use, drastically reducing the intensity of use of the property. Because a denial of this application would leave Applicants with no beneficial use other than reconstruction of the structures on their existing footprint, and thus undermines rather than serves the goals of the Act, this Application satisfies Section 57-0121(10)(a).

...and that this inability to have a beneficial use results from unique circumstances peculiar to the subject property which:

- (i) *Do not apply to or affect other property in the immediate vicinity;*

The history and current use of the subject property in the CPA is unique and the site's history and current use do not apply to or affect other properties in the immediate vicinity of the site. The property has been in Applicants' family for more than eighty years. Apart from the sentimental value of an heirloom property, this property is uniquely situated on Wildwood Lake. There are no comparable properties available to Applicants.

The property is zoned R-15, which allows for a single-family home on a minimum of 15,000 SF. The lack of a beneficial use in this case—*i.e.*, the property was originally developed with small cottages serving multiple families, generally does not apply to or affect other property in the immediate vicinity. The immediate residential area comprising Old Westhampton Road, Lakeview Avenue, and Topping Drive is fully developed with residential housing stock.

This is an extraordinary hardship as opposed to a mere inconvenience because the property owners have invested funds to maintain the existing buildings on the property. Consolidating the multi-family use to a single-family home will help ensure that the property owners can continue use of the property.

The demolition of the cottages and construction of a single-family residence will not affect the properties in the immediate vicinity, as the proposed action will result in a decrease in intensity of use. The proposed residence will be constructed within the footprint of existing development/disturbance and will not disturb existing vegetation, cause safety concerns or cause any new visual impacts.

The granting of such hardship exemption to this property should be considered in the context of these conditions as outlined herein:

- (a) The property was previously disturbed prior to the establishment of Article 57 and the CLUP for the CPA;
 - (b) The proposed action is merely a continuation of the current use (at significantly decreased intensity)
 - (c) The property is part of a residential community that is fully developed
 - (d) The proposed action is in accordance with the current land use of the subject property, with no disturbance to or removal of the ecological resources of the CPA
 - (e) Granting the Hardship Exemption is consistent with the Commission's prior hardship determinations (see precedent examples below in Section 2.2)
- (ii) *Relate to or arise out of the characteristics of the subject property rather than the personal situation of the applicant; or*

The characteristics of the property are described above. The current configuration of cottages, which occupies the site, was originally constructed approximately 60 years prior to the Pine Barrens Act.

The character of the site is that of a multi-family seasonal property that does not meet the needs of a modern family for continued use. As a result, the use is not able to operate effectively on the site that it otherwise would if the proposed action were to occur.

This Hardship application has been prepared for a specific site and the specific conditions of residential cottages thereon; it would not have been practicable for the Applicant to evaluate an alternative site, as there are no comparable properties available to Applicants situated on Wildwood Lake. Denying the application – and thereby forcing applicants to utilize residential structures that have long outlived their natural lifespan and do not meet their current needs – is effectively a prohibition on the continued use of this property, which has been in the Applicants' family for generations.

The proposed project will not clear any of the existing natural vegetation on the subject property. The proposed disturbance is situated well within the footprint of currently disturbed area, which has been disturbed since the 1930s. Additionally, the plan provide habitat improvement in connection with this hardship, as the Applicant proposes the natural revegetation of the northern portion of the subject property following removal of the cottages.

Thus, the hardship would improve the safety and operations of the existing property, including a reduction in intensity of use that has occurred on the property nearly 100 years. The hardship would allow improvement of the environmental condition of the subject site by reducing intensity of use, ensuring that portions of the subject property maintain natural conditions, and safety, visual and environmental conditions would also be beneficially improved.

- (iii) *Are not the result of any action or inaction by the applicant or the owner or his predecessors in title including any transfer of contiguous lands which were in common ownership on or after June 1, 1993.*

The hardship for which an exemption is sought is not the result of any action or inaction on the part of the Applicant (which is also the Owner); the Applicant has not altered the size or configuration of the buildings since prior to 1993 (see historical aerial photographs in **Appendix E**). The hardship is the result of the CPA boundary being placed to include the pre-existing developed site in 1993, nearly 60 years after the site was initially developed. As the subject property is in the CPA, it requires a Hardship approval to allow for the proposed action. As noted, consolidating the

multiple cottages to a single-family residence will address safety, visual and environmental issues associated with the current unsustainable use of the site.

2.2 Commission's Prior Hardship Determinations

Granting of the Hardship Exemption is consistent with the Commission's prior Hardship determinations because (a) it is merely a continuation of the current use (at significantly decreased intensity) and (b) because it is part of a residential community that is already fully developed:

a) Commission Has Previously Determined that Continuation of Prior Use Satisfies Hardship Criteria

The Commission has previously granted hardship exemptions where the proposed development is merely a continuation of a present use and will not materially increase the use or environmental impact. See, e.g., Approved Resolution for Starbucks of Manorville (June 21, 2017), attached as **Appendix F**. In the Starbucks of Manorville matter, the project site was a 2,000 SF building occupied by a coffee shop and a bank. The applicant sought to expand its footprint to include a drive-thru, which triggered a change in zone and classification as a major restaurant. Manorville Starbucks sought a hardship exemption, which was granted by the Commission.

In seeking the exemption, the applicant asserted that §57-0121(10)(a) was satisfied because "the proposed action is merely a continuation of an existing use." The Commission agreed, stating "the Applicant has met the criteria in ECL §57-0121(10)(a) because the characteristics of the property are unique. The property was developed with a restaurant use prior to the Act. The Project will not increase the number of uses or different types of uses than those that already exist nor expand the existing building beyond its current footprint or gross floor area." The Commission went on to note that the "result is no net increase in the number of uses will occur, no net increase in gross floor area, footprint or lot coverage will occur, and the site will continue to be used . . . in accordance with its present land use with no disturbance to or removal of the ecological resources of the Core Preservation Area."

For similar reasons, the Commission also determined Section 57-0121(10)(a)(i)-(iii) were satisfied. Subsection (i) was satisfied because the project "continues the existing use" and "utilizes the developed property" in a similar manner. Subsection (ii) was satisfied because "the Project Site is currently developed [and] no net increase in development is proposed." Finally, the Commission found subsection (iii) was satisfied because "the restaurant use presently, legally exists on the Project Site" and the project achieves a "compact, efficient and orderly development in the Central Pine Barrens."

For the same reasons, the Commission should find that Applicants satisfy §57-0121(10)(a) and subsections (i) through (iii). The property in this case was developed for residential use prior to the Act. Although the Applicants were not the owners when the development took place, they acquired the property through a combination of inheritance and purchase. Nancy Gosselin has utilized the property for residential use for more than five decades, while her husband, Jason Gosselin, has utilized the property for residential use for more than three decades. The proposed project is merely a continuation of that use but in a more environmentally friendly manner and with a significant reduction in the intensity of use of the property.

As with the Manorville Starbucks application, this project also “will not increase the number of uses or different types of uses” than currently. While the footprint of the new home will be different than the footprint of the removed structures, it will be much smaller (approximately one third) than the footprint of the removed structures, and the total usable living space will be reduced by nearly half. In addition, the footprint of the new structure will be well within the current developed area and will not require any clearing of pine barrens vegetation. If a continuation of use (with the same intensity) warrants an exemption, the continuation of use with a drastic decrease in intensity should similarly warrant an exemption.

Moreover, the uniqueness of Applicants’ property cannot be overstated. Numerous options were and remain available for the operation of a coffee shop or restaurant. In this case, the property is situated on Wildwood Lake and has been in Applicants’ family for generations. There are no comparable properties available to Applicants.

b) Commission Has Previously Determined that Development in Fully Developed Community Satisfies Hardship Criteria

The exemption application is also supported by the fact that all other available residential properties in the immediate vicinity are already developed. The Commission has previously granted hardship exemptions in these circumstances. *See, e.g.*, Approved Resolution for 71 Lakeview Drive (July 20, 2016), attached as **Appendix F**. In the Lakeview Drive matter, the property owners sought a Core Preservation Area hardship exemption to construct a single family home on the last remaining undeveloped lot in the residential community. The property at issue in that case is approximately 500 yards from Applicants’ property, and both are part of the same residential community. Much of the Commission’s reasoning for granting the exemption in that case also applies here.

In the Lakeview Drive matter, the Commission determined that §57-0121(10)(a) was satisfied because “the characteristics of the subject property are unique” in that the “property is situated in a developed residential community and is the only remaining undeveloped, unprotected parcel with development on all sides.” For similar reasons, the Commission determined that §57-0121(10)(a)(i)-(iii) was satisfied, noting that the project site “is the only undeveloped property on a road surrounded on three sides by existing residential development and in a developed residential community with 72 dwellings and no other undeveloped, unprotected parcels.” The Commission also noted that the property constituted an infill lot and had no other beneficial use.

Applicants’ property is part of the same residential community as the Lakeview Drive property. See Google Earth Photographs, attached as **Appendix F**. Applicants’ property is situated at the intersection of Old Westhampton Road and Topping Drive. Old Westhampton Road runs in a northerly/southerly direction along the east side of Wildwood Lake. Apart from a public boat launch area, the properties along Old Westhampton Road are developed with residential housing. In particular, excluding Applicants’ eight residential cottages, there are more than twenty existing residential housing units on the 1/3 mile stretch of the road that runs along the east side of the lake. (It is believed that these homes are part of the 72 dwellings noted in the Lakeview Drive exemption approval.) Similar to the Lakeview Drive matter, Applicants’ property has access to an existing, improved paved road and is adjacent to an existing developed property on the south side.

The Lakeview Drive property was bounded on three sides by existing development, while Applicants’ property is bounded on only one side by existing development. Despite this difference, Applicants’ present an equal or greater case for a hardship exemption because they are not seeking to develop **currently undeveloped** land. They seek to continue the same use in a manner that will constitute a net improvement from an environmental and development standpoint.

Commission Meeting of May 16, 2018
Wertheim National Wildlife Refuge
340 Smith Road, Shirley, NY

**Central Pine Barrens Joint Planning and Policy Commission
Final Adopted Resolution on Accepting the Written
Decision on Remittal for the
Henry Dittmer Core Preservation Area
Extraordinary Hardship Application
Yaphank, Town of Brookhaven, SCTM #200-529-5-35**

Carrie Meek Gallagher
Chairwoman

Steven Bellone
Member

Laura Jens-Smith
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

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

Whereas, by resolution on February 16, 2016, the Central Pine Barrens Joint Planning and Policy Commission denied the application of Henry R. Dittmer ("Dittmer"), as Administrator of the Estate of Richard Dittmer, to build a house on a 10,000 square foot landlocked parcel of land in Yaphank in Brookhaven Town in the Core Preservation Area of the Central Pine Barrens and to construct a road to access this parcel and,

Whereas, on March 11, 2016, Dittmer commenced a proceeding challenging the Commission's determination in the New York Supreme Court, and

Whereas, by decision dated January 24, 2018, the Honorable Joseph Farneti, Justice of the Supreme Court, annulled the Commission's decision and remitted the matter back to the Commission for further proceedings consistent with the Court's determination, and

Whereas, the Commission issues the attached decision, and

Whereas, as the Commission previously determined, the Dittmer Project is a Type II Action pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act, SEQRA), now, therefore, be it

Resolved, that the attached document constitutes the written decision for the Henry Dittmer Core Preservation Area Extraordinary Hardship Application Yaphank, Town of Brookhaven, SCTM #200-529-5-35.

Motion by: Ms. Gallagher
Second by: Mr. Collins
Ayes: Ms. Gallagher, Mr. Dale, Mr. Romaine, Ms. Jens-Smith and Mr. Collins
Nays: None
Abstentions: None
Absent: None

624 Old Riverhead Road
Westhampton Beach, NY
11978

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

Decision on Remittal
Henry Dittmer Core Preservation Area Extraordinary Hardship Application
Yaphank, Town of Brookhaven, SCTM #200-529-5-35

Henry R. Dittmer (“Dittmer”) inherited from his father, Richard Dittmer, a 10,000 square foot landlocked parcel of land in Yaphank in Brookhaven Town in the Core Preservation Area of the Central Pine Barrens. Dittmer, as Administrator of the Estate of Richard Dittmer, applied to the Central Pine Barrens Joint Planning and Policy Commission to build a house on his parcel and a road to access the house. By Resolution dated February 16, 2016, the Commission denied the application. On March 11, 2016, Dittmer commenced in the New York Supreme Court, Suffolk County, a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, challenging the Commission’s determination. By decision dated January 24, 2018, the Honorable Joseph Farneti, annulled the Commission decision and remitted the matter back to the Commission for further proceedings consistent with the Court’s determination. The Court noted that “[a]n agency’s determination which neither adheres to its own prior precedent nor indicates its reasons for reaching a different result on essentially the same facts is arbitrary and capricious, even if there may otherwise be evidence in the record sufficient to support the determination.” Dittmer at 4.

The Commission has considered Dittmer’s application, the record developed on the application and finds that the specific facts underlying the Dittmer application differ from the 10 hardship exemptions Dittmer cites as precedent and thus those decisions were not made on essentially the same facts as the Dittmer application.

I. The Act, the Commission and Development

In 1993, the New York State Legislature passed the Act and it was codified in Article 57 of the Environmental Conservation Law. The Act created the Central Pine Barrens Joint Planning and Policy Commission (the “Commission”) to, among other things, oversee land use activities within the specially designated Central Pine Barrens Area. The Act created two regions with the Central Pine Barrens Area, the Core Preservation Area and the Compatible Growth Area. In furtherance of its mission and in compliance with the directives set forth in the Act, the Commission drafted the Central Pine Barrens Comprehensive Land Use Plan (the “Plan”), which was adopted on June 28, 1995. The Plan was developed to implement the provisions of the Act and in certain instances, contained recommendations for further legislative action.

The Commission regulates “development” in the Core Preservation Area and the Compatible Growth Area. The Act defines “development” as among other things “any building activity.” ECL §57-0107. New development in the Core Preservation Area may only proceed upon Commission approval. The Act authorizes the Commission to grant waivers to allow new development in the Core Preservation Area if an applicant for such development demonstrates that they will suffer an extraordinary hardship without such waiver. To demonstrate an extraordinary hardship the applicant must demonstrate that their parcel has no beneficial use if used for its present use or as authorized under the Act or that compelling public need exists for the public and the inability to have a beneficial use results from unique circumstances peculiar to the subject

parcel which does not apply to other property in the immediate vicinity, relate to or arise out of the characteristics of the subject property rather than the personal situation of the applicant or are not the result of any action or inaction by the applicant. *See generally* ECL § 57-0123. Dittmer's proposed project constitutes development and he applied for an extraordinary hardship waiver.

II. The 2015 Dittmer Application, the Commission Staff Report and the Commission's February 16, 2016 Decision

By letter dated August 24, 2015, Dittmer submitted an Extraordinary Hardship Waiver application to the Commission to develop a single-family residence with an individual sanitary system and related infrastructure including customary accessory uses on his parcel which is located on the mapped but not developed road known as Chesterfield Road and 153 feet from County Road 21¹, the nearest improved road. Dittmer's application was supplemented by materials dated October 7, 2015, November 13, 2015, and January 28, 2016. A public hearing was held on the application on December 16, 2015 and a transcript was made of the hearing.

In anticipation of the hearing, Commission staff prepared a report that included information about the Dittmer parcel, Dittmer's application and contained eight exhibits. The report also provided information about the "Surrounding Land Use and Zoning" an area located within one-half to a mile of the Dittmer parcel. Information of this area, denominated the "Study Area" was used by the Commission to determine the whether the circumstances affecting the Dittmer parcel are peculiar to the Dittmer parcel and do not apply or affect other properties in the immediate vicinity which is part of the standard the Commission must apply to determine whether Dittmer demonstrated an extraordinary hardship distinguished from a mere inconvenience as required under the Act. ECL §57-0121.

The Report notes that the "predominant land use category within a study area of one-half mile to one mile of the [Dittmer Parcel] is preserved public land owned and managed by Suffolk County, encompassing more than 450 acres." Staff Report at 3. The Report states that within the Study Area, no roads intersect County Road 21 for a distance of approximately 3,700 feet on the east or approximately 1,700 feet on the west. The Report notes that there are seven dwellings and one commercial structure on the east side of County Road 21 in the 3,700 feet stretch on the east. There are two houses on the west side of County Road 21 in the 1,700 stretch on the west. Staff Report, Exhibit A. Chesterfield Road, on which the Dittmer parcel is platted, if developed, would intersect County Road 21 at a point within the 3,700 foot stretch on the east side of County Road 21 currently free of road intersections.

¹ County Road 21 is also known as Yaphank-Middle Island Road.

During the Dittmer application hearing, Richard Scheyer, Dittmer's attorney urged the Commission to find that the facts in the Dittmer application were substantially similar to the facts in applications that were previously granted extraordinary hardship waiver exemptions and thus application should also be granted. Scheyer and Michael Nobiletti, who also testified on Dittmer's behalf, that the area surrounding the Dittmer parcel was a "substantially developed area," notwithstanding the conclusions of the Commission staff contained within its Staff Report.

III. The Article 78 Proceeding

The Court annulled the Commission's determination and remitted the matter back to the Commission noting that the Commission "failed to address, much less distinguish, any of the hardship exemptions previously granted."

The Commission finds that factual bases and conclusions of its February 16, 2016 decision are valid and were not annulled by the Court. Therefore, the Commission incorporates by reference the February 16 decision into this decision and makes it a part hereof. The Commission finds that its decision properly established that Dittmer did not provide specific facts demonstrating that the Dittmer parcel would have no beneficial use if used for its present use or as authorized under the Act. The Commission supplements its Decision with the analysis contained herein to demonstrate that the specific facts underlying the Dittmer Parcel differ from the facts underlying the ten cases that Dittmer points to.

IV. Findings and Determinations

The Commission finds that the area in the immediate vicinity of the Dittmer parcel is not substantially developed based upon the Commission's staff report and the Study Area defined in it. The Staff Report notes that there are only seven residences and one commercial structure on the east side of County Road 21 and two structures on the west side in the Core Preservation Area of the Study Area and that all of the developed structures front County Road 21. The Commission further finds that it has not granted an extraordinary hardship exemption to allow a person to develop 153 feet of a paper road to provide access to an otherwise landlocked parcel and to allow the person to construct a house on the otherwise landlocked parcel.

The Commission finds that all of the facts set forth in the cases Dittmer cited are distinguishable from the facts set forth in the Dittmer application. The Commission makes this determination by its review of its decisions in these matters, the Commission files, and the transcripts of the hearings on them. The hearing transcripts are posted on the Commission's website at www.pb.state.ny.us.

None of the parcels cited by Dittmer, with the exception of the Woodstock parcel, are located in the study area. The Commission finds that these other parcels were not within the immediate vicinity of the Dittmer parcel.

While Woodstock is located in the Study Area, Woodstock is immediately distinguishable

because Woodstock concerned a Letter of Interpretation Credit Appeal, not a grant of an extraordinary hardship waiver. The Commission created a transferable rights program in the Plan known as the Pine Barrens Credit program. Woodstock participated in the Program, he did not seek a hardship as Dittmer does. Thus, any decision in the Woodstock matter cannot constitute precedent requiring the Commission find that Dittmer suffers an extraordinary hardship. The legal standards for a Pine Barrens Credit appeal and an extraordinary hardship exemption request differ. Thus Woodstock was not decided on “essentially the same facts” as Dittmer.

Screven, Osleeb and Czarnecki are also immediately distinguishable because these parcels are located on the Core Preservation Area residential nondevelopment roadfront parcel list. See Plan 9.1.1 and Figure 9-1. Parcels on this list are located on improved roads and the Legislature accepted the Commission’s 1995 recommendation to amend the Act to define the construction of a single family residence on the parcel as an action not constituting regulated development. Thus, landowners of parcels on this list are permitted to construct a single-family dwelling as of right without a permit from the Commission. See ECL § 57-0107(13)(x). The hardships were approved before the list was enacted into law by the Legislature but after the parcels were proposed for inclusion on the list in the Plan. The Dittmer parcel is not located on the residential nondevelopment roadfront parcel list nor is it proposed for any such list or in the Plan. Thus, the Commission’s decisions in these three instances do not constitute precedent that requires the Commission to approve Dittmer’s application.

Kristiansen, Blake, Marshall, Cachimpanis, Czarnecki, DeMauro, Goldstein, and Cox are also factually distinguishable because these parcels are located on developed roads. Similarly, Morgan received approval to develop a parcel that took access across a driveway on another parcel he owned which had frontage on an existing road. Dittmer’s parcel is not on an existing road and he did not seek to access his parcel across other property he owns that fronts on an existing road and has a developed driveway. Thus these cases were not decided on “essentially the same facts” as Dittmer.

Kristiansen and DeMauro presented facts substantially different from those involved in the Dittmer matter. In Kristiansen there was an existing 22 foot by 24 foot two-car garage and a 20 by 14 foot concrete slab on the parcel for which Kristiansen applied to the Commission for an extraordinary hardship exemption. Kristiansen had already received prior permission from the Town of Brookhaven to build on the land and had a pre-Act permit to do so in a Town of Brookhaven Building Department Building Permit dated December 15, 1970 and had Wild, Scenic and Recreational Rivers Act Permit and Freshwater Wetlands Permit.

The DeMauro property was developed with a dwelling prior to the Act. A fire occurred on the property in the 1970s and the house burned down. DeMauro sought to rebuild a house that had burned down in the 1970s. In 1994, the Town Board of the Town of Brookhaven issued a Negative Declaration with draft conditions for a Wetlands Permit for DeMauro. Here, there is no development on Dittmer’s parcel, nor has Dittmer stated he has received permission to build on the land or a permit of any kind. Dittmer is not replacing a structure destroyed by fire. The Commission finds that these matters do not compel it find Dittmer suffered an extraordinary

hardship. Thus these cases were not decided on “essentially the same facts” as Dittmer.

Additionally, in Blake, Marshall, Cachimpanis, and DeMauro there was existing development in the immediate vicinity of the parcels on existing improved roads. Blake’s southern boundary adjoined the north side of 10 developed lots in a subdivision with frontage and access on a developed road, Patrick Lane, on the south side of each lot. Blake had approximately 134 feet of frontage directly on William Floyd Parkway. Similarly, in Marshall, the parcel was adjacent to two existing single-family residences. Cachimpanis and DeMauro were infill lots, which were vacant lots situated between developed lots . Here, the record shows that the Dittmer parcel is not immediately adjacent to any development. It is not on an existing improved road. Thus, the Commission’s decisions in these applications do not constitute precedent requiring that Dittmer’s application be approved.

The Commission determines that Dittmer’s reliance of Cox is misplaced. Cox’s parcel fronted on an existing improved road. Second, Cox had received pre-Act permission from the Town of Brookhaven’s Zoning Board of Appeals prior to the Act’s adoption to split it into two lots. One of the lots contained a partially constructed house. The ZBA approval lapsed and the parcel remerged before Cox could take measures to prevent their re-merger due to financial and personal issues. None of those factors exist in the Dittmer application. It is not on an existing road, a lot split approved by the ZBA or partially developed. Thus Cox was not decided on “essentially the same facts” as Dittmer.

Finally, Goldstein is also factually distinct because the vegetation on the Goldstein parcel was disturbed and had been previously cleared and has more than 300 feet of frontage on an existing improved County road, CR 111. The vegetation on the Dittmer parcel is undisturbed, has not been cleared, and the parcel is not on an existing improved road. Thus Goldstein was not decided on “essentially the same facts” as Dittmer. The Commission’s decision in Goldstein also does not constitute precedent requiring that Dittmer’s application be approved.

The Commission finds that all of the matters referenced by Dittmer presented facts significantly different from those in the Dittmer matter. The Commission determines that Dittmer has not identified any instance where the Commission granted an extraordinary hardship exemption to allow the construction of a single family home on a parcel that does not front on an existing improved road, or does not have access to an existing improved road via an improved driveway on adjacent property owned by Dittmer.

The Commission finds that Dittmer failed to establish or provide information sufficient to demonstrate an extraordinary hardship exists under the standards in ECL §57-0121 for the reasons set forth in its February 17, 2016 decision.

For the foregoing reasons, the Commission denies the Dittmer application.

Core Preservation Area Permits Issued - Listed by Issue Date

Updated through 4/27/2022

Please note that Core Preservation Area permits generally have conditions contained within them.

*Please see the “**resolution**” links below or contact the Commission office for details. The first three digits of the Tax Map Number are the “District” indicating the Town in which the project is located.*

District 200 is Brookhaven Town, District 600 is Riverhead Town, and District 900 is Southampton Town.

Sequence Number	Suffolk County Tax Map Number	Date Approved	Permit Type	Applicant(s)	Description	Location
1	900-308-5-59	4/13/94 (resolution)	Hardship	Hampton West Estates and Joseph Nemeth, Jr.	14 lot residential subdivision.	End of Stewart Avenue, west of County Route 31, Westhampton.
2	200-383-1-6.1	7/27/94 (resolution)	Hardship	Stuart Osleeb	Single family residence.	Sally Lane, Ridge.
3	900-248-1-110.2	8/10/94 (resolution)	Hardship	Westhampton Ministorage c/o Edwin Tuccio	Expansion of self storage facility by two buildings.	North side of Suffolk County Gabreski Airport, east of County Route 31, Westhampton.
4	200-461-1-1 and 3 (now 3.2)	11/21/94 (resolution) 10/21/15 (amendment)	Hardship	Saints Peter and Paul Roman Catholic Church	Church.	Southeast corner of North Street and Wading River Road, Manorville.
5	200-459-1-1.4	12/12/94 (resolution)	Hardship	American Physical Society	Office building expansion.	West side of William Floyd Parkway, south of NYS Route 25, Ridge.
6	200-382-3-13	12/12/94 (resolution)	Hardship	Janet DeMauro	Single family residence.	West side of Sally Lane, south of Big Pine Road, Ridge.
7	200-412-1-1	1/13/95 (resolution)	Hardship	Manor Pines	15 lot residential subdivision.	Southeast corner of Halsey Manor Road and Mill Road, Manorville.

8	200-358-1-9	5/24/95 (resolution)	Hardship	Theresa Cox; Charles and Kathleen Green	Single family residence.	Starr Boulevard, south of NYS Route 24, Calverton.
9	200-529-2-18 and 36	6/16/95 (resolution)	Hardship	Amy and Donald Madelung	Single family residence.	East side of County Route 21, Middle Island.
10	900-201-1-14	6/23/95 (resolution)	Hardship	Judith Massa	Single family residence.	Pleasure Drive, Flanders.
11	900-286-2-38.1	9/20/95 (resolution)	Hardship	Joseph Gazza	Industrial buildings.	West side of County Route 31, south of Sunrise Highway, north of Stewart Avenue, Westhampton.
12	600-146-1-29.15	10/25/95 (resolution)	Hardship	Eagle's Nest Estates	Single family residence.	East side of Oakwood Drive, south of the intersection of Wading River Manor Road and Line Road, Calverton.
13	200-462-2-5	11/8/95 (resolution)	Hardship	Clancy Street Food Court and David Kepner	Retail food and food service facility or retail dry goods facility.	Southeast corner of Long Island Expressway and County Route 111, Manorville.
14	200-382-2-11	1/24/96 (resolution)	Hardship	Frank Turrigiano	Single family residence.	West of Big Pine Road, south of Medford Road, Ridge.
15	200-271-1-21	3/20/96 (resolution)	Hardship	Rita Kristiansen	Single family residence.	North side of South River Road, east of Forge Road, Calverton.
16	200-299-1-8	4/3/96 (resolution)	Hardship	Regina and Stanley Seltzer	Single family residence.	North side of South River Road, Calverton.
17	200-355-3-16	5/29/96 (resolution)	Hardship	Roberta Sterk	Single family residence.	East side of Primrose Path, north of Mill Road, Calverton.
18	200-462-4-7	9/11/96 (resolution)	Hardship	John Feore	Single family residence.	West side of Halsey Manor Road, north of County Route 111, Manorville.
19	900-247-1-4.1	9/11/96 (resolution)	Hardship	Exact Technology Corp., an affiliate of TNT Waterworks	Private groundwater extraction well for commercial bottling.	Southwest corner of Sunrise Highway and County Route 31, Westhampton.

20	900-311-1-8.4	10/2/96 <i>(resolution)</i>	Hardship	George Mathys	Industrial site plan.	West side of County Route 31, Westhampton.
21	900-287-1-2	1/29/97 <i>(resolution)</i>	Hardship	Hampton Athletic Club and Quoogue Tennis Time	Parking area expansion.	West side of County Route 104, South of Lewis Road, Oakville.
22	200-410-1-7.6 and 10	6/4/97 <i>(resolution)</i>	Hardship	Seth Morgan	Two single family residences	North of North Street, south of Robert Cushman Murphy County Park, Manorville.
23	200-355-2-15.1	6/4/97 <i>(resolution)</i>	Hardship	Theodore Martz	Single family residence.	South side of Mill Road, east of Halsey Manor Road, Manorville.
24	200-294-4-14	7/16/97 <i>(resolution)</i>	Hardship	Dolores Blake	Three lot residential subdivision.	West side William Floyd Parkway, north of NYS Route 25, Ridge.
25	900-194-1-3	8/6/97 <i>(resolution)</i>	Hardship	Hampton Hills Golf and Country Club	Expansion of clubhouse and addition of accessory buildings and parking.	Between County Routes 51 and 104, north of Sunrise Highway and south of Wildwood Lake, Northampton.
26	200-510-1-11	9/17/97 <i>(resolution)</i>	Hardship	Evan Goldstein	Single family residence.	Northeast side of County Route 111 on north side of intersection with Hot Water Street, Manorville.
27	900-248-1-110.2	10/8/97 <i>(resolution)</i>	Hardship	Westhampton Ministorage c/o Edwin Tuccio.	Expansion of self storage facility by four buildings.	North side of Suffolk County Gabreski Airport, east of County Route 31, Westhampton.
28	900-311-1-9.3	11/19/97 <i>(resolution)</i>	Hardship	Ralph Schenk and ProCorm	New industrial warehouse and expansion of existing building.	West side of County Route 31, Westhampton.
29	900-286-2-38.1	1/28/98 <i>(resolution)</i>	Hardship	Joseph Gazza	Industrial buildings.	West side of County Route 31, south of Sunrise Highway, north of Stewart Avenue, Westhampton.
30	200-462-2-12.2	8/5/98 <i>(resolution)</i>	Hardship	Michaelangelo's Restaurant	Restaurant expansion.	Northeast side of County Route 111, south of Long Island Expressway, Manorville.

31	200-410-2-3	12/9/98 (resolution)	Hardship	Timothy Pawson for property of Ivy Gaffga	Two single family residences.	South side of North Street, east of Ryerson Road, Manorville.
32	200-300-4-4	2/24/99 (resolution)	Hardship	Gina DeMarco on behalf of Felicia Matusevich	Single family residence.	North side of Elm Street, south of NYS Route 24, Calverton.
33	200-383-1-9	5/19/99 (resolution)	Hardship	Richard Salmon	Single family residence.	East of Sally Lane, west of William Floyd Parkway, Ridge.
34	900-194-1-3	6/9/99 (resolution)	Hardship	Hampton Hills Golf and Country Club	Fabric structure, golf cart path, and asphalt pad.	Between County Roads 51 and 104, north of Sunrise Highway and south of Wildwood Lake, Northampton.
35	900-various tax map sections	1/26/00 (resolution)	Compelling public need	Long Island Power Authority	Underground electric transmission line.	Riverhead substation south to Riverhead Moriches Road, southwest to Speonk Riverhead Road, south to Sunrise Highway, east to Sunrise Highway Exit 65, then east to South Fork.
36	200-382-3-19	4/25/01 (resolution)	Hardship	William Morgan	Single family residence	East side of Sally Lane, south of the intersection of Sally Lane and Big Pine Road, Ridge.
37	900-311-1-8.4 and 23 (These are old parcels numbers which have been merged into one parcel. The new parcel number is not yet available.)	6/27/01 (resolution)	Hardship	Joseph Gazza	Industrial site plan.	West side of County Road 31, Westhampton.
38	200-460-1-6.1 and 6.2 (renumbered as 6.3)	7/18/01 (resolution)	Hardship	Katherine Forster Screven	Single family residence.	North side of North Street, west of Wading River Road, Manorville.
39	200-462-2-7	8/8/01 (resolution)	Hardship	Lakeside Manorville Hotel day care facility	Children's day care facility	East side of County Road 111, south of the LI Expressway, Manorville
40	200-460-1-9	9/26/01 (resolution)	Hardship	Robert Pino with the permission of Anna and Alexander Czarniecki, Jr.	Single family residence	Fronts on the west side of Wading River Road and the north side of North Street

								(wrapping around the unrelated corner property) in Manorville.
41	600-141-3-1 and 142-1-1.3	10/17/01 (resolution)	Hardship	Swan Lake Golf Course	Addition to an existing clubhouse, plus associated water supply and sewage disposal facilities.	373 River Road (south side of Swan Pond Road a/k/a Grumman Boulevard, west of River Road), Manorville.		
42	900-183-1-2.2	10/17/01 (resolution)	Hardship	John DeGregorio	Removal of two of three existing residences (located on one parcel); subdivision into four lots (one of which contains the remaining residence), two new residences on two of the new lots, and the retention of the other new lot as open space.	East side of Pleasure Drive, south of NYS Route 24, Flanders.		
43	200-296-1-1.2	7/10/02 (resolution) (<i>Annulled by 2/26/03 court decision</i>)	Hardship	Brookhaven Town on behalf of the Brookhaven Town Volunteer Firefighters Museum	Firefighting Museum building complex, fire training and tournament facility, campground, and associated uses.	Firemen's Town Park, north side of NYS Route 25, east of William Floyd Parkway, Ridge.		
44	600-146-1-8	7/24/02 (resolution)	Hardship	John Trocchio	Split of this lot into two lots, and the construction of one single family home on each of the new lots.	South side of Wading River Manor Road, west of Line Road in Manorville.		
45	900-164-4-1	9/4/02 (resolution)	Compelling public need	Town of Southampton	Repair and renovation of an existing parking lot including leaching basins, paving, and lighting; and the construction of a 200 square foot public rest room facility and sanitary system within the lot.	West side of Wildwood Lake, east side of County Road 63, south of Riverhead business district, in Wildwood – Northampton.		
46	200-481-1-5	10/2/02 (resolution)	Hardship	Harold Marshall	Single family residence.	North side of East Bartlett Road in Middle Island.		
47	200-300-3-28 and 29	5/21/03 (resolution)	Hardship	George Cachimpanis	Single family residence.	West side of Parkway Drive, south of Nugent Drive (NYS Route 24), in Calverton.		
48	200-410-2-2	5/21/03 (resolution)	Hardship	Baiata/Arthur Miller/Beneficial Design Corp.	Residential structure.	East side of Raynor Road, north of Long Island Railroad, south of North Street, and adjacent to the Suffolk County Pine Trail Nature Preserve, in Manorville.		

49	900-311-1-26	1/21/04 (resolution) (Rescinded by Commission on 4/21/04)	Hardship	Herman Beckwith c/o Joseph Gazza	1,200 square foot building for industrial use.	West side of County Route 31, south of Stewart Avenue, in Westhampton.
50	200-351-1-10	4/20/05 (resolution)	Hardship	Ridge Day Care Center a/k/a MTK Enterprises	Day care facility	South side of NYS Route 25 (Middle Country Road), west of Giant Oak Road, Ridge.
51	200-roadways (partly in Riverhead)	6/15/05 (resolution)	Compelling public need	Keyspan	Gas transmission main Phases 4 and 5.	Vicinity of LIE Exit 70 along Mill Road to Edwards and Nugent Avenues in vicinity of Exit 71.
52	600-138-1-6.2	7/20/05 (resolution)	Hardship	Kent Memorial Animal Shelter	Expansion of existing office.	2259 River Road (west side), Calverton.
53	900-311-1-3.3 and 8.7	9/20/06 (resolution) 7/16/14 (amendment)	Hardship	Celi Electric	Warehouse extension.	West side of CR 31, Westhampton
54	900-135-2-2	11/19/08 (resolution)	Compelling public need	Long Island Power Authority	Substation expansion.	South of Peconic River, north of Nugent Drive.
55	200-459-1-1.4	7/21/10 (resolution)	Hardship	American Physical Society	Office building expansion.	West side of William Floyd Parkway, south of NYS Route 25, Ridge.
56	200-383-1-22	10/20/10 (resolution)	Hardship	Estate of Constance DiPeri	Single-family residence.	West side of William Floyd Parkway, 4,225 feet south of NYS Route 25, 217.8 feet east of Sally Lane, Ridge.
57	900-204-1-8	6/15/11 (resolution) 12/21/11 (resolution to extend filing of C&Rs)	Hardship	JCJC Holding Company, Inc.	Change of use for landscape contractor office.	105 Flanders Road (SR 24), Hampton Bays.
58	900-276-3-1 and 2	10/17/12 (resolution)	Hardship	Westhampton Property Associates	Expansion of sand and gravel mine.	East of Speonk-Riverhead Road, 500 feet east of 5 th Ave., north side of CR 71, Remsenberg/Speonk.
59	900-195-3-2	8/19/15 (resolution)	Compelling public need	Rockwell Collins	Construction of two, 45-foot tall guyed communications towers.	1370 Quogue Riverhead Road (CR 104), Flanders

60	900-163-2-27	7/20/16 <i>(resolution)</i>	Hardship	71 Lakeview Drive, Northampton	Single-family residence	71 Lakeview Drive, Northampton
61	200-462-2-6	6/21/17 <i>(resolution)</i>	Hardship	Starbucks at Manorville (CA 485 County Road, LLC)	Change of zone from J Business 2 to J Business 5	485 County Route 111, East side of CR 111, Manorville
62	900-313-1-1.1, 902-1-1-23.1 and 24	2/3/22 <i>(resolution)</i>	Compelling Public Need	Quogue Wildlife Refuge	1,000 square foot expansion of the nature center and 1,980 square foot storage building	3 Old County Road, Quogue
63	200-745-1-1	4/20/22 <i>(resolution)</i>	Compelling Public Need	Sunrise Wind LLC	0.6 mile of development in the Core, part of a 17.5 mile onshore electric transmission cable for an offshore wind project	Southaven County Park, Victory Avenue, Yaphank

Summary Counts

Type	Brookhaven Town	Riverhead Town	Southampton Town unincorporated	Southampton Town Village of Quogue	Southampton Town Village of Westhampton Beach	Total
Core Hardship	33 <i>(1 annulled)</i>	4	19 <i>(1 rescinded)</i>	-	-	56 <i>(1 annulled; 1 rescinded)</i>
Compelling Public Need	2	-	4	1	-	7
Total	35 <i>(1 annulled)</i>	4	23 <i>(1 rescinded)</i>	1	0	63 <i>(1 annulled; 1 rescinded)</i>

Core Preservation Area Applications Disapproved - Listed by Date

For further information, please see the "[resolution](#)" links below or contact the Commission office.

Updated through 11/18/20

Sequence Number	Suffolk County Tax Map Number	Date Disapproved	Application Type	Applicant(s)	Description	Location
1	200-463-1-12.3	2/23/94 (resolution)	Hardship	Furia	Residential subdivision	North side of Hot Water Street, east of CR 111, Manorville
2	200-463-1-12.3	5/2/94 (resolution)	Hardship	Furia	Single-family residence	North side of Hot Water Street, east of CR 111, Manorville
3	900-286-2-38.1	5/31/95 (resolution)	Hardship	Gazza	Industrial building	West side of CR 31, south of NYS 27, Westhampton
4	900-286-2-38.1	6/23/95 (resolution)	Hardship	Gazza	Industrial building (second proposal)	West side of CR 31, south of NYS 27, Westhampton
5	900-287-1-2	7/12/95 (resolution)	Hardship	Hampton Athletic Club	Parking area	West side of CR 104, Quogue
6	200-300-4-37, 38	12/14/95 (resolution)	Hardship	Lukas	Single-family residence	Starr Boulevard, south of Nugent Drive, Calverton
7	900-247-1-4.1	2/21/96 (resolution)	Hardship	Gazza	Clearing for new agriculture	Southwest corner of NYS 27 and CR 31, Westhampton
8	900-212-1-17.8, 17.9, 17.10, 17.11	2/21/96 (resolution)	Hardship	Gazza	Four single-family dwellings	South of the intersection of County Road 51 and East Moriches-Riverhead Road, Eastport
9	900-247-1-4.1	7/16/97 (resolution)	Hardship	Gazza	Single-family residence	Southwest corner of NYS 27 and CR 31, Westhampton
10	200-382-3-9	8/5/98 (resolution)	Hardship	Triolo	Residential subdivision of lot with existing home into three lots with two new homes.	West side of Sally Lane, north of Big Pine Road, Ridge
11	200-270-4-28	6/30/99 (resolution)	Hardship	Bilek	Single-family residence	North of Nugent Drive, east of Pinehurst Boulevard, south side of Cedar Street, Calverton

12	200-454-1-8 200-480-3-1, 2	7/21/99 (resolution)	Hardship	Migliore	Single-family residence	East side of East Bartlett Road, south of NYS 25, Middle Island
13	200-462-4-11	9/13/00 (resolution)	Hardship	Malenda	Single-family residence	West side of Halsey Manor Road, north of CR 111, Manorville
14	200-460-1-27	9/26/01 (resolution)	Hardship	Independent Group Home Living	Residential facility	East side of Wading River Road, north of North Street, Manorville
15	600-146-1-10.11, 10.15	7/24/02 (resolution)	Hardship	Trocchio	Single-family residence	South side of Wading River Manor Road, west side of Line Road, Manorville
16	200-410-2-2	9/4/02 (resolution)	Hardship	Baiata	Retail commercial building	East side of Raynor Road, north side of LIRR tracks, Manorville
17	200-462-2-12.2	3/19/03 (resolution)	Hardship	Michaelangelo's	Restaurant addition	East side of CR 111, south of NYS 495, Manorville
18	900-213-1-72.1	8/11/10 (resolution)	Hardship	Joseph Zachary Gazza Monopole c/o Joseph F. Gazza	99 foot telecommunications monopole on a 0.34 acre parcel in the Open Space Conservation Zoning District. The parcel was purchased after the passage of the Pine Barrens Act	North side of CR 51, opposite intersection of CR 51 and Speonk - Eastport Road, Eastport
19	200-351-2-6.1 (Core) and 200-351-2-20 (CGA)	1/19/11 (resolution)	Hardship	7-Eleven, Inc., Ridge	Expansion of parking lot into the Core parcel from the CGA parcel where the 7-Eleven currently exists	Southeast corner of SR 25 and Red Maple Road, Ridge.
20	200-460-1-11.1	6/18/14 (minutes)	Hardship	Sunderland	Single-family residence	West side of Wading River Road, Manorville
21	200-460-1-10	9/17/14 (minutes)	Hardship	Armand Gustive	Single-family residence and development of an unopened road.	West of Schultz Road, Manorville
22	200-460-1-10 and 11.1	1/21/15 (resolution)	Hardship	Armand Gustive LLC and Eagan Environmental Solutions LLC	Three-lot subdivision	West of Schultz, Manorville
23	200-529-5-35	2/17/16 (resolution)	Hardship	Henry Dittmer	Single-family residence and development of an unopened road	East of Yaphank Middle Island Road, Yaphank
24	200-461-3-40	5/18/16 (resolution)	Hardship	East End Christian Academy	15,000 square foot building for a K-12 grade school for 200 students on a 2.68 acre project site	505 Eastport Manor Road, Manorville

25	200-460-1-10	6/15/16 (resolution)	Hardship	Armand Gustave, LLC c/o Peter Baron	Single-family residence and development of an unopened road	West of Schultz Road, Manorville
26	200-460-1-19 and 20	9/21/16 (resolution)	Hardship	Trocchio (Antro Realty Corp.)	Single-family residence and development of an unopened road	East of Schultz Road, Manorville
27	200-410-2-1.1	7/19/17 (resolution)	Hardship	Independent Group Home Living Program, Inc.	Group home	South side of North Street, west of Ryerson Avenue, north of the LIRR tracks, Manorville
28	200-326-3-3	8/16/17 (resolution)	Hardship	Henry Dittmer	Development of single-family residence	Northeast cloverleaf of William Floyd Parkway and Middle County Road, Ridge.
29	200-529-5-36	12/19/18 (resolution)	Hardship	Eagan Dittmer	Development of single-family residence	Unopened road (Chesterfield Avenue), east of CR 21, Middle Island, Yaphank.
30	200-355-4-5, 200-412-3-6_	11/18/20 (resolution)	Hardship	Joseph F. Gazza	Development of single-family residence	South side of Mill Road, Manorville.

Summary Counts

Application Type	Brookhaven Town	Riverhead Town	Southampton Town unincorporated	Southampton Town Village of Quogue	Southampton Town Village of Westhampton Beach	Total
Core Hardship	22	1	7	-	-	30
Compelling Public Need	-	-	-	-	-	0
Total	22	1	7	0	0	30

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*ALSO ADMITTED IN CONNECTICUT

October 5, 2023

Central Pine Barrens Joint Planning & Policy Commission
624 Old Riverhead Road
Westhampton Beach, New York 11978

Re: Interpretation Request of Nancy A. Gosselin and Jason P. Gosselin
Premises: 49 Old West Hampton Road, hamlet of Northampton
SCTM# 0900-164.00-04.00-011.000 & 012.000

Dear Commission Members,

Please be advised that our firm represents Nancy A. Gosselin and Jason P. Gosselin (hereinafter referred to as the "Applicants"), who are the owners of the above captioned improved real property located within the Core Preservation Area. The Applicants seek necessary permits and approvals to undertake work on their property to demolish, remove, replace, reconstruct, improve and alter the eight (8) preexisting, nonconforming residential cottages and construct one conforming single family dwelling in their place in accordance with all current laws, ordinances and regulations, thereby reducing the intensity of use and environmental impact of the current uses as further described herein and in the documents submitted herewith (hereinafter referred to the "Project").

Request: Applicants initially request that the Central Pine Barrens Joint Planning & Policy Commission (hereinafter referred to as the "Commission") make an interpretation that the proposed Project does not constitute "development" under the provisions of §57-0107(13) of Long Island Pine Barrens Maritime Reserve Act, (hereinafter referred to as the "Act"). Applicants make this request in light of a letter sent by the Commission to the NYSDEC, dated July 19, 2023, wherein the Commission without notice to the Applicants, advised the NYSDEC that the Project was considered to be development under the Act and to direct the Applicants to make application to the Commission. The Applicants request that they be given an opportunity to present the Project to allow the Commission to consider or reconsider its recommendations to the NYSDEC. If the Commission determines that the Project is considered development, then the Applicants request that the Commission grant a hardship waiver pursuant to §57-0121. In support of this request, the Applicants herewith submit Core Preservation Area (CPA) Hardship Application Gosselin Property, prepared by Nelson, Pope & Voorhis, LLC, dated October 5, 2023.

History and Current Use: The premises, which consists of two tax parcels in the same name and ownership, has been in Applicant Nancy Gosselin's family for more than eighty years and has served four generations of family members. In the 1930s, Nancy Gosselin's maternal grandparents (Joseph and Sarah Conlan), along with two other couples (Harry and Dorothy Stewart and George and Barbara Cole) purchased the undeveloped property on Wildwood Lake. The three families lived in New York City, and the 1.7 acres of vacant land was intended for seasonal use. The owners held the land as joint tenants by the entirety and soon built cottages for residential use. Over the years, the owners built at least nine cottages on the property. Dorothy Stewart, Barbara Cole and Sarah Conlan typically spent their entire summers at the property with their children, and on summer weekends their husbands. The Applicant's mother, Carol Bisaccia, nee Conlan, spent her first summer at the property in approximately 1940 and every summer thereafter until her death in 2021 at the age of 85. Nancy Gosselin (and other grandchildren of the original owners) also spent their childhood summers at the property.

The Stewarts sold their ownership interest in the property to Carol and Anthony Bisaccia in 1970, and sometime thereafter the Coles also sold their interest. By 2017, the sole owner of the property was a family trust established for the benefit of Carol Bisaccia. and Anthony Bisaccia. In 2021, the trust transferred ownership of the property to the Applicants, Nancy Gosselin (granddaughter of original owners Joseph and Sarah Conlan and the daughter Carol and Anthony Bisaccia) and her husband, Jason Gosselin.

The premises benefits from a Certificate of Occupancy ("CO"), No. C13596, dated July 26, 1990 (see attached copy as Exhibit A) wherein the Town of Southampton Building recognizes the uses and structures on the property preexisted the adoption of the Town Zoning Code on October 14, 1957. The CO identifies the following: "SEASONAL C.O. JUNE 1-SEPTEMBER 15, Nine (9) Wood frame seasonal cottages, One shed with bath & sanitary facilities, One storage shed" and a total of eleven (11) buildings (see also copy of survey with the CO and current survey annexed to the Hardship Application).

Eight of the nine cottages remain in residential use today. One cottage has previously been removed. Friends and family members use them from late spring through early fall, enjoying Wildwood Lake and access to other East End offerings. Two of the cottages are fully winterized and are capable of use on a year-round basis.

Proposed Project: Although the cottages served the owners' needs over the years, the cottages in their current condition are no longer suitable for Applicants for at least three reasons.

Cottages Will Soon Exceed Natural Life Spans. The lifespan of a home is generally between 50 and 100 years, depending on weather conditions and the quality of construction, among other things. The cottages were built more than eighty years ago and were intended for seasonal use. Two of the cottages were upgraded to allow for possible year-round use, but the cottages generally do not meet the needs of modern families (*e.g.*, lack of insulation, inefficient heating in winter, insufficient cooling in summer, lack of laundry facilities, small kitchen and bathroom facilities, etc.) Because the cottages require significant and costly maintenance and will soon exceed their life span, the Applicants prefer to remove them and construct a modern and efficient home that suits their needs.

Configuration Not Suitable for Single Family Use. The Applicants need a residential structure large enough to accommodate their family (i.e. six to ten people.) Most of the time, the proposed new residence will be occupied solely by Applicants, but they need a house large enough to accommodate visits from their children and eventually their grandchildren. None of the present cottages are large enough for that purpose. Similarly, Applicants are in their 50s and want a home with modern amenities that requires less maintenance. The size and configuration of the eight cottages does not suit these needs.

Applicants Unable to Accommodate Short-Term Use. The current configuration of cottages was well-suited for couples and small families seeking a seasonal vacation experience with minimal amenities. Given the age of the cottages, that use requires a constant presence on the property by an owner capable of providing ongoing maintenance (see Photos of Cottages). Applicants currently live in Pennsylvania, and they plan to use the property for occasional weeks or weekends throughout the year. They plan to spend more time at the property once they retire in 10 to 12 years.

Seven of the existing residential cottages are arranged roughly in a “U-shape” on the eastern half of the property with access to the paved Old Westhampton Road. Each of these cottages, which range in size from approximately 500 square feet to 1,700 square feet, will be demolished and removed from the premises. The eighth cottage closest to Wildwood Lake consisting of approximately 375 square feet will be converted and remain as dry storage. Replacing the cottages will be one two-story, single-family home of approximately 3,600 square feet (see Survey and Architectural Drawings). The dimensions are 45’ by 40’, with a total footprint of 1,800 square feet, plus the two-story covered deck in the rear. The structure will be approximately 190’ from Wildwood Lake at its closest point. The proposed home is designed in traditional style, with exterior cladding of genuine cedar shakes. The look and design are in keeping with East End architecture generally as well as the rural character of Wildwood Lake. The new home will be a substantial improvement from an aesthetic standpoint.

The new home will also be a significant improvement in terms of environmental impact. For example, the total building footprint of the removed structures is 6,200 square feet, while the footprint of the new structure will be 1,800 square feet. The total square footage of living space of the removed structures is 6,500 square feet, while the total living space of the new home will be 3,600 square feet. Instead of seven kitchens serving the needs of 15-20 people, there will be one kitchen for single family use. Similarly, instead of eight toilet facilities and seven showers, there will be five toilet facilities and four showers serving the needs of a single family. The six cesspools and associated drywells that currently serve the eight cottages will be removed entirely. The new home will be serviced by a Fuji CEN 10 I/A system. The new home will also meet modern standards of energy efficiency.

Construction of the new home will not require any clearing and will not disturb the existing natural pine barrens vegetation or freshwater wetlands. As set forth on the attached survey, the footprint of the new structure will be well inside the outer perimeter of the demolished cottages. The Applicants intend to revegetate and plant native trees and vegetation on the property, particularly in the space created by the removal of the cottages on the northerly side of the premises.

Additional details of the proposed project and description of mitigation measures are described in the Hardship Application.

Request For Jurisdictional Determination:

Applicants submit that the proposed Project does not constitute “development” because it involves the demolition, removal, replacement, reconstruction, improvement and/or alteration of the eight (8) preexisting, nonconforming residential cottages and the construction of one single family dwelling in their place in accordance with all current laws, ordinances and regulations, thereby reducing the intensity of use and environmental impact of the current uses. For the reasons set forth below, Applicants ask the Commission to reconsider its recommendations to the NYSDEC and find that the Project does not constitute “development” as defined in the Act.

Section 57-0107(13) of the Act defines “development” and explicitly identifies types of building activity as nondevelopment, the relevant portions of which set forth as follows:

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 title to involve development as defined in this subdivision:

- (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;
- (d) material alteration of a shore, bank or flood plain of a river, stream, lake, pond, or artificial body of water;
- (e) re-establishment of a use which has been abandoned for one year;
- (f) departure from the normal use for which development permission has been granted, or material failure to comply with the conditions of an ordinance, rule or order granting the development permission under which the development was commenced or is continued.

The following operations or uses do not constitute development for the purposes of this title:

- (iii) work for the maintenance, renewal, ***replacement, reconstruction, improvement, or alteration of any existing structure*** or additions to an existing residence or residential property owned by an association formed for the common interest in real property; (emphasis added)

In the first instance, the Project does not fall within any of the stated activities that constitute development. Subsection (a) does not apply as there is no change in the zoning designation, rather this application would be considered to be a permitted change from a preexisting, nonconforming use to a conforming use.

With respect to subsection (b), the Project should not be considered a building activity that is making of any material change in the use or intensity of use of any structure or land or environmental impacts thereof. As described herein and in the Hardship Application materials, rather than a material increase in the intensity of use or environmental impacts, the Project will significantly decrease the intensity of use and current environmental impacts, bringing the property up to current standards with invaluable environmental mitigation measures that are customarily imposed by the NYSDEC and Town Conservation Board due to the proximity to freshwater wetlands. The proposed project is consistent with the purpose of the Act because it drastically improves the environmental impact compared to the current use. For example,

- Seven (7) of the eight (8) residential cottage structures will be removed.
- The eighth cottage structure, situated closest to Wildwood Lake, will not be removed but will be used for dry storage.
- The total building footprint of the removed structures is 6,200 square feet, while the footprint of the new structure will be 1,800 square feet.
- The total square footage of living space will be reduced from 6,500 square feet to 3,600 square feet.
- Instead of seven kitchens there will be one kitchen.
- Instead of eight toilet facilities and seven showers, there will be five toilet facilities and four showers.
- The six cesspools and associated drywells will be removed, and the new residential structure will be serviced by a Fuji CEN 10I/A system.
- Previously disturbed portions of the Property will be revegetated.

With respect to subsection (c), the Project does not involve any mining, excavation or material alteration of grade or vegetation on a parcel of land and actually includes environmental restoration activities, which are exempted therein.

With respect to subsection (d), the Applicants Project does not involve material alteration of a shore, bank or flood plain of a river, stream, lake, pond, or artificial body of water. At the direction of the NYSDEC and Town Conservation Board, the Applicants will be removing existing structures in Wildwood Lake that may not have a permit and will not undertake any activities involving a material alteration of the lake or its shoreline.

With respect to subsection (e), the Project does not involve re-establishment of a use which has been abandoned for one year. The preexisting, nonconforming use is still in existence. Nonetheless, the Applicant is changing the preexisting, nonconforming use to a conforming use.

With respect to subsection (f), the Project does not involve departure from the normal use for which development permission has been granted, or material failure to comply with the conditions of an ordinance, rule or order granting the development permission under which the development was commenced or is continued. The Applicants have not previously received any approvals nor is the property encumbered with any previous conditions, and the Project will actually result in conformance with existing standards.

Thus, because the Project significantly decreases the intensity of use and current environmental impacts and will bring the property up to current standards with invaluable environmental mitigation measures, the Project does not fall within the statutory conditions that are considered development. Moreover, §57-0107(13) (iii) of the Act states that certain “uses or operations *do not constitute development* for the purposes of this title, including (iii) work for the maintenance, renewal, replacement, reconstruction, improvement, or alteration of any existing structure and subsection (iv) states “the use of any structure or land devoted to dwelling uses for any purposes customarily incidental and otherwise lawful.”

The plain text of the statute indicates that the Project is not development because it involves the demolition, removal, *replacement, reconstruction, improvement and alteration* of the eight (8) preexisting, nonconforming residential cottages to replace and allow the construction of one conforming single-family dwelling with customary accessory uses or structures, all of which will be in accordance with all current laws, ordinances and regulations. The terms replacement, reconstruction, improvement and alteration are not defined in the statute nor the CLUP and are to be construed in their plain meaning. New York courts have “long applied the well-respected plain meaning doctrine in fulfillment of its judicial role in deciding statutory construction appeals.” *Raritan Development Corp. v. Silva*, 689 N.E.2d 1373, 1377 (N.Y. 1997). While courts are obliged to effectuate the intent of the legislature, “where the statutory language is clear and ambiguous, the court should construe it so as to give effect to the plain meaning of the words used.” *Id.* (quoting *Patrolmen’s Benevolent Ass’n v. City of New York*, 359 N.E.2d 1338 (N.Y. 1976)).

“Replace” is defined as “to take the place of,” while “replacement” is defined as “substitution.” Webster’s New Collegiate Dictionary (7th ed. 1969) at 727. Clearly, the new single-family dwelling will *take the place of* the nonconforming residential cottage structures and therefore constitutes a *replacement*. This project is a “replacement” under the plain meaning of the term used in the Act.

The property in this case is zoned Residence R-15 and, as previously noted, contains eight residential cottage structures that are not permitted under the current zoning requirements and are considered nonconforming. The cottages are lawful and permitted to remain as they existed prior to the adoption of zoning in 1957 as described on the Certificate of Occupancy. The Project contemplates the replacement of seven of the nonconforming cottages with a one conforming single-family dwelling and alteration of the one remaining cottage to a conforming accessory structure for dry storage use.

We were verbally advised that the Commission’s recommendations to the NYSDEC may have been based upon an interpretation that “replacement” under the Act requires the replacement and/or reconstruction of a new structure only in the same footprint as the prior structure. Applicants respectfully submit that interpretation is inconsistent with the plain text of the statute as well as the intent and purpose of the Act contemplated by the legislature. There is no such requirement stated in the Act or the CLUP and the same-footprint interpretation undermines rather than promotes the legislative intent of the Act in this case.

The legislative purpose of the Act is to “preserve, protect and enhance the natural recreational, economic and educational values of the region,” Section 57-0103, and to preserve and protect unique landforms, groundwater, and “endangered, threatened and special concern species of plants and animals.” Section 57-0105. In short, the Act serves to protect the environment by prohibiting or regulating development activity. Moreover, the intent of the legislature is to require the Commission’s review and scrutiny of a building activity that involves a material change in the use or intensity of use of any structure or land. As already demonstrated, the Project here does not involve a material change in the use or intensity of use of any structure or land, and actually will significantly decrease the intensity of use and current environmental impacts, bring the property up to current standards with invaluable environmental mitigation measures that are customarily imposed by the Town, NYSDEC and Town Conservation Board. Also, it is submitted that the intent of the legislature in further defining nondevelopment is to encourage the condition that the Project actually contemplates, to wit: the replacement of the preexisting, nonconforming residential cottages with one conforming single-family dwelling with customary accessory uses or structures, all of which will be in accordance with all current laws, ordinances and regulations. On the other hand, the same footprint interpretation would only encourage the replacement of the cottages with like cottages and not the replacement with a conforming single-family dwelling. In this case the proposed dwelling is in the area where some of the existing cottages are located with an increased wetland setback than existing cottages and with the remaining disturbed areas resulting from the removal of the nonconforming cottages to be revegetated.

The same footprint interpretation would only promote a “form over substance” process requiring the Applicants to prove a “hardship” for complying with the law, thereby adding superfluous review, time and expense to the Applicants (which can be an actual hardship to the Applicants). Given the proximity of the Project to Wildwood Lake, the Town, NYSDEC and Town Conservation Board already have jurisdiction to review the environmental compatibility of the replacement of the nonconforming cottages with a conforming single-family dwelling. It is respectfully submitted that additional Commission review under the hardship standards appears unnecessary. Both the Town and NYSDEC have reviewed the Project under their jurisdictional applications and provided positive comments toward the removal of the nonconforming cottages and replacement with a conforming single-family dwelling.

Moreover, the same footprint interpretation is inconsistent with the Commission’s prior resolutions involving the replacement of residential structures. *See, e.g.*, Commission Resolution 9/20/06, attached hereto as Exhibit B. On September 20, 2006, the Commission determined that the replacement and **expansion** of the Bruhn residence in Brookhaven did not constitute development. In that case, David Bruhn “filed a Core Preservation Area Extraordinary Hardship Permit for the total removal, expansion and replacement of a single-family dwelling on a two-acre parcel along with partial clearing of the parcel.” *Id.* At a meeting on August 16, 2006, the Commission reserved decision and instructed staff to review prior non-development determinations for similar proposals within the Core Preservation Area. After reviewing “eight prior similar non-development determinations within the Core Preservation Area,” the Commission determined that “the proposed removal, **expansion** and replacement of a single-family dwelling is deemed non-development pursuant to Article 57-0107(13)(iii)” of the Act. *Id.* (emphasis added).

The Bruhn resolution and the finding of non-development did not depend on whether the new home occupied the same footprint as the prior home. To the contrary, the Commission noted that the project involved the “expansion and replacement” of the existing home.

Here, the Applicants seek to build a clean, modern and environmentally responsible residential structure that dramatically decreases the intensity of use of the property. The current nonconforming residential cottage structures are not suitable for the Applicants’ housing needs and lifestyle. This use is consistent with the goals of the Act and the specific provisions of the Act’s restrictions development. *See* Section 57-0107(13)(b) (stating that “a material increase in the intensity of use of land or environmental impact as a result thereof” involves development). In other words, same footprint interpretation is not supported by the plain text or the spirit of the law.

For the reasons set forth above, the Applicants respectfully request that they be given an opportunity to present the Project to allow the Commission to consider or reconsider its recommendations to the NYSDEC and make a determination that the Project is not considered development. If the Commission determines that the Project is considered development, then the Applicants request that the Commission grant a hardship waiver pursuant to §57-0121. In support of this request, the Applicants hereby submit Core Preservation Area (CPA) Hardship Application Gosselin Property, prepared by Nelson, Pope & Voorhis, LLC, dated October 5, 2023.

Alternative Request for Hardship Exemption:

As noted above, if the Commission determines that the Project is considered development, then the Applicants request that the Commission grant a hardship waiver pursuant to §57-0121. Although the Act prohibits development in the Core Preservation Area, the Act also allows for a hardship exemption. Under §57-0121(10)(a), an exemption is warranted if the “particular physical surroundings, shape or topographical conditions of the property involved would result in an extraordinary hardship . . . if the provisions of the act are literally enforced.” The application must also satisfy §57-0121(10)(c). To the extent the Commission maintains its position that the proposed project constitutes development, a hardship exemption is warranted under §57-0121(10)(a) and is consistent with the Commission’s prior decisions.

In support of such a Hardship Application, the Applicants submit herewith the “Core Preservation Area (CPA) Hardship Application Gosselin Property,” prepared by Nelson, Pope & Voorhis, LLC, dated October 5, 2023.

SCTM# 900-181-6-2.9

Exhibit
A

TOWN OF SOUTHAMPTON
BUILDING DEPARTMENT

Certificate of Occupancy

BUILDING ZONE ORDINANCE - ARTICLE XXIV, SECTION 1

Date... July 26, 1990....., 198....

No. C 13596

Permit No.None.....

Carol Bisaccia, Anthony Bisaccia, Evelyn Gore, Joan Cerrone
Maureen Poncato

This is to certify that the

New () Altered () Addition () Pre-Existing ~~XXXXX~~ Building

Located..... E/S #93 Lake Rd., Pine Valley, Town of
Southampton, New York

has been COMPLETED substantially according to the approved plans, and the re-
quirements of the above ordinances have been met and permission is hereby granted
for the OCCUPANCY of building for the following purposes:

This certificate supersedes all previously issued certificates.

USE

SEASONAL C.O. JUNE 1 - SEPTEMBER 15

Nine (9) Wood frame seasonal cottages

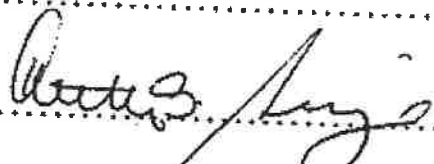
One shed with bath & sanitary facilities

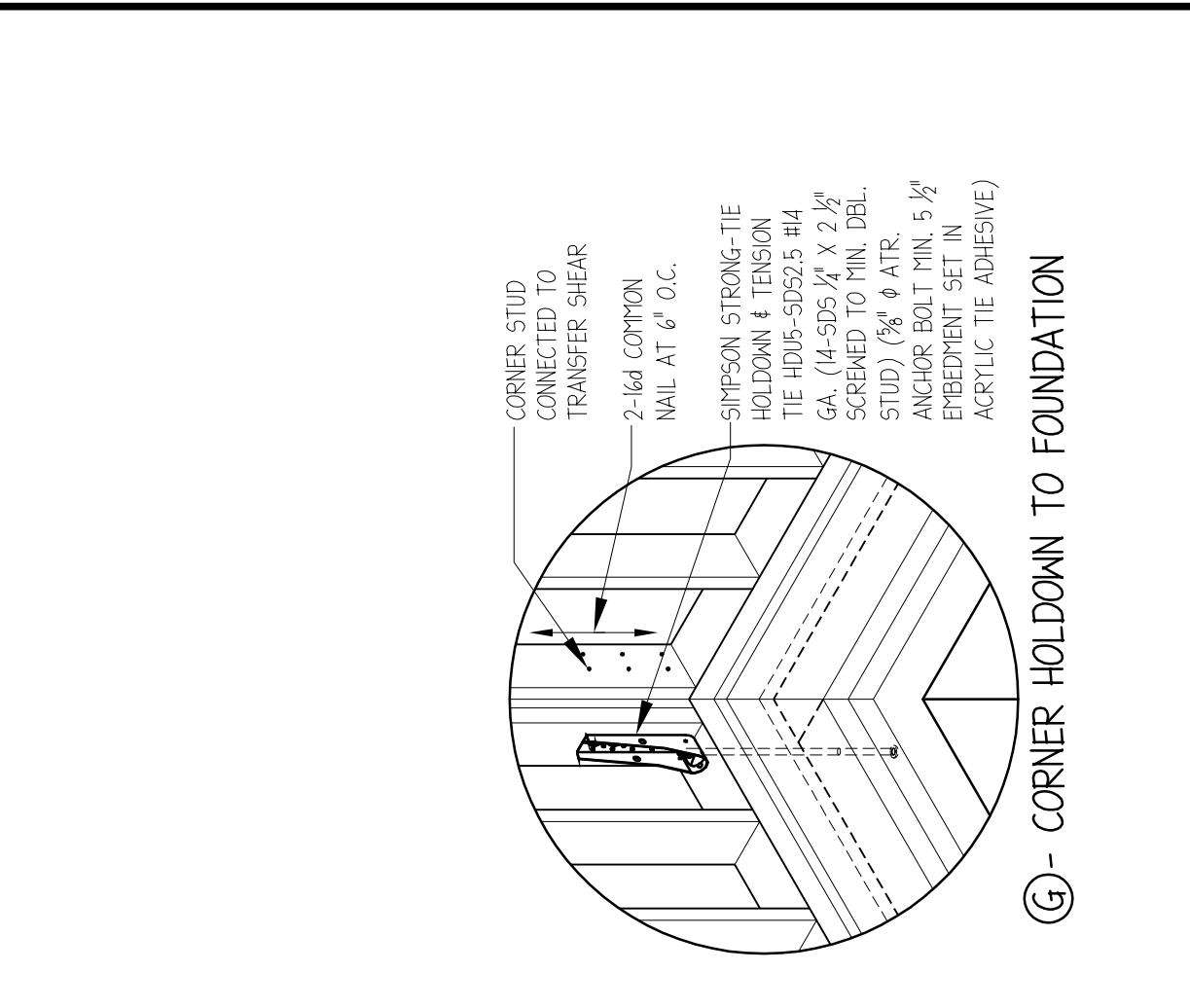
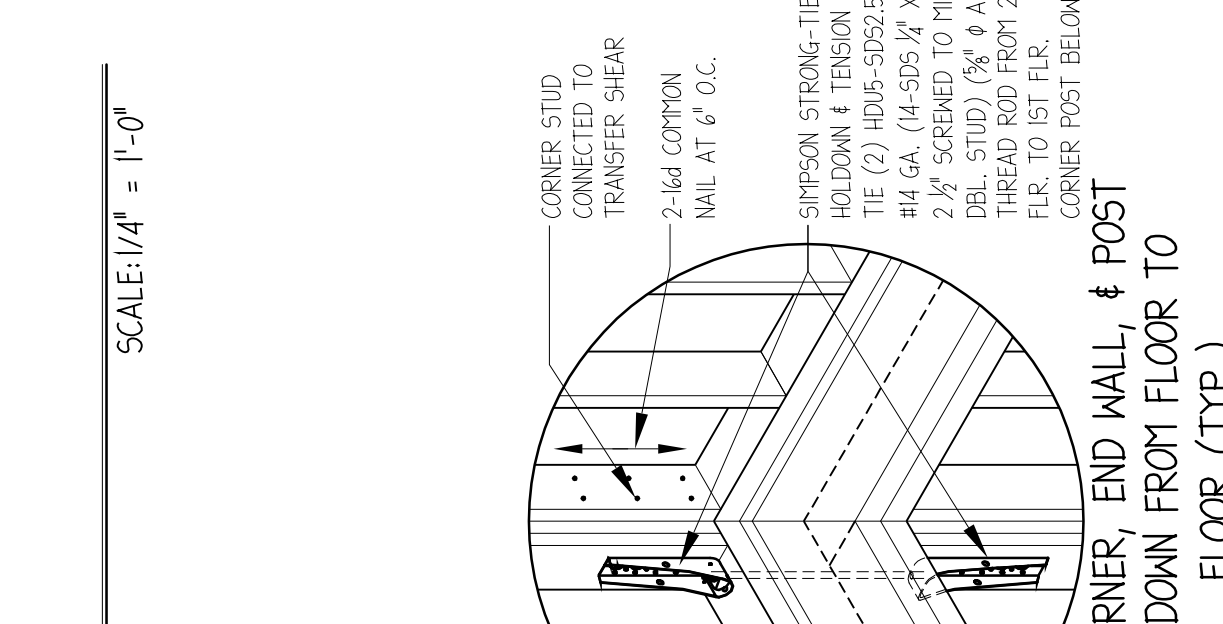
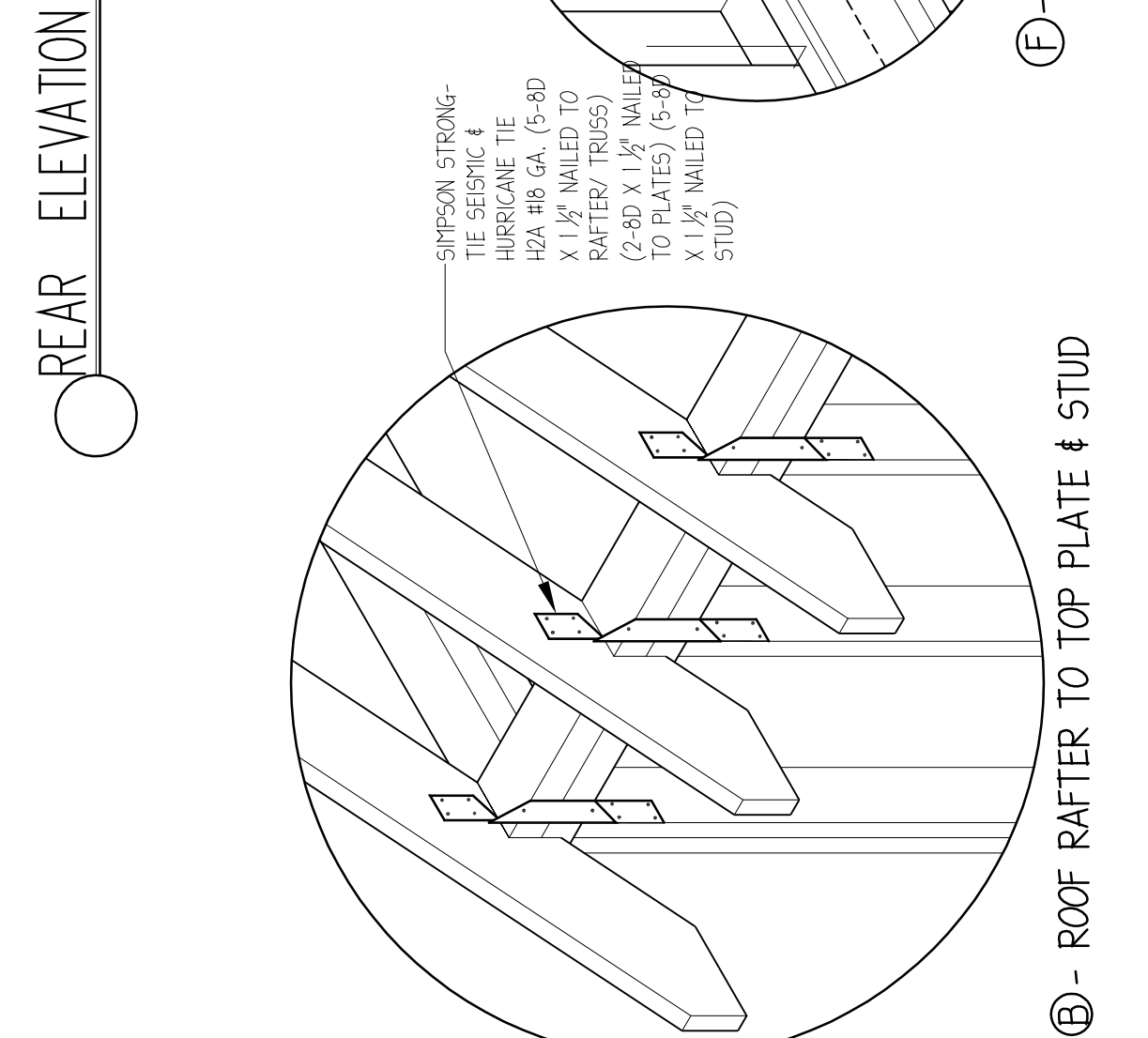
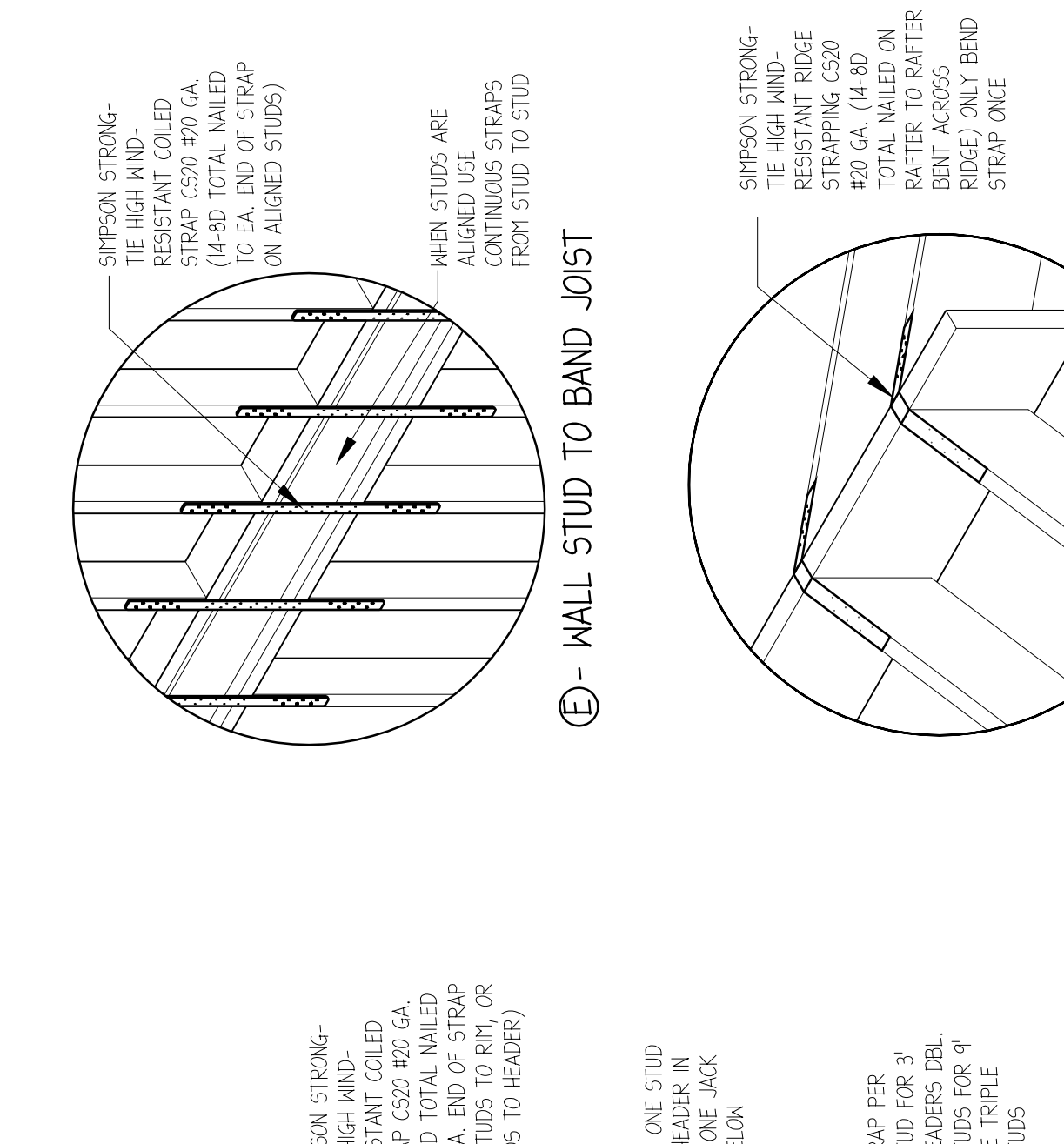
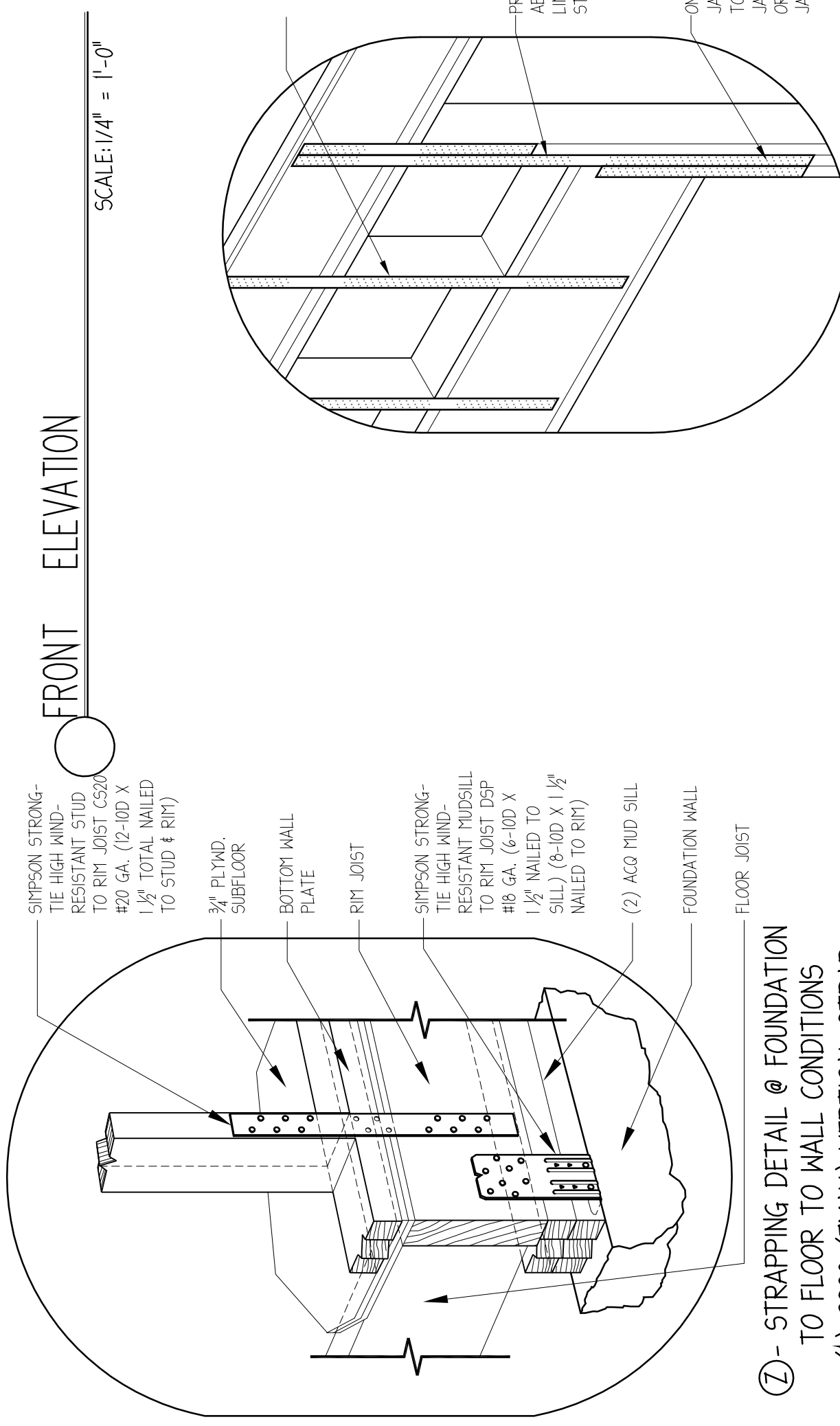
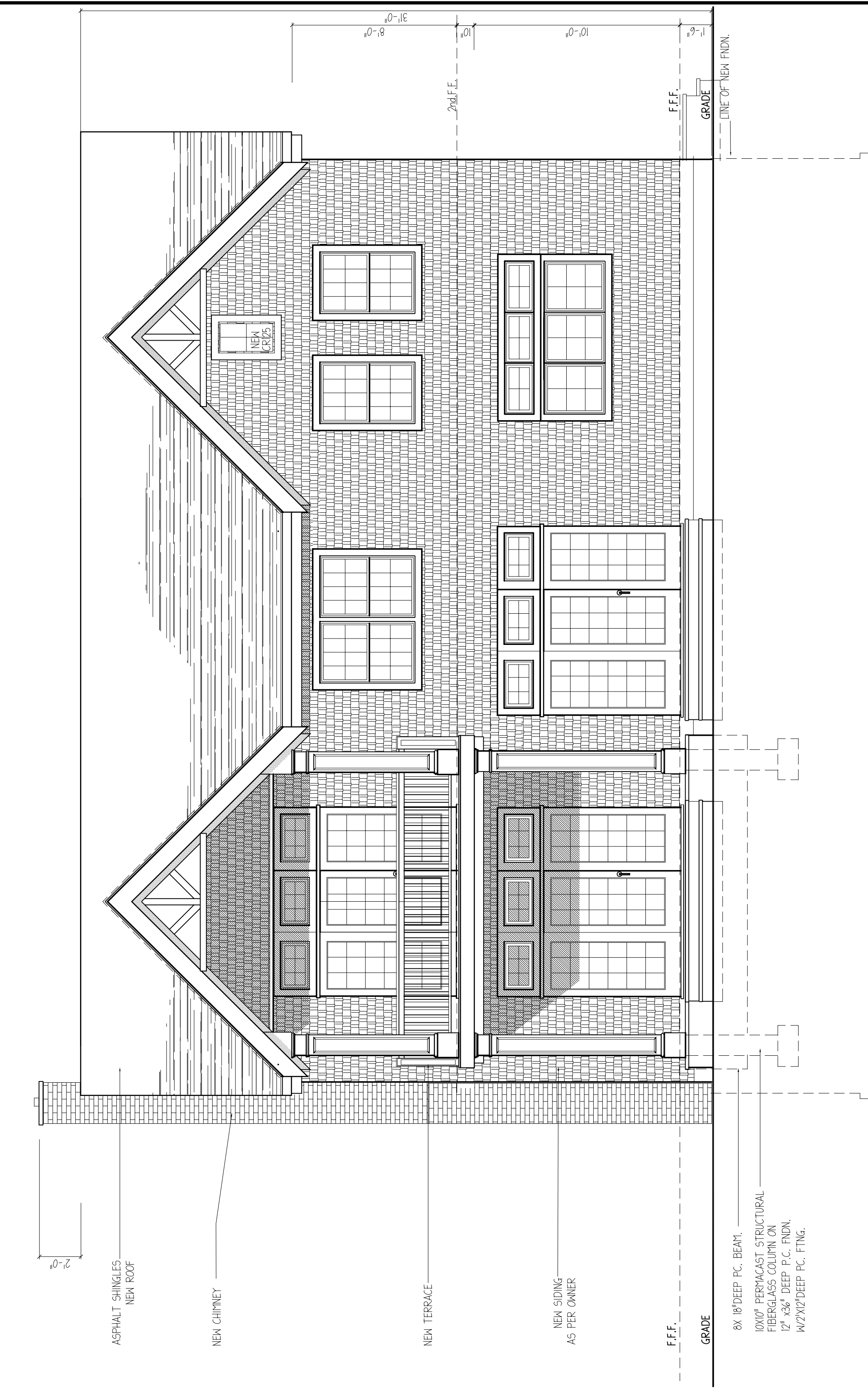
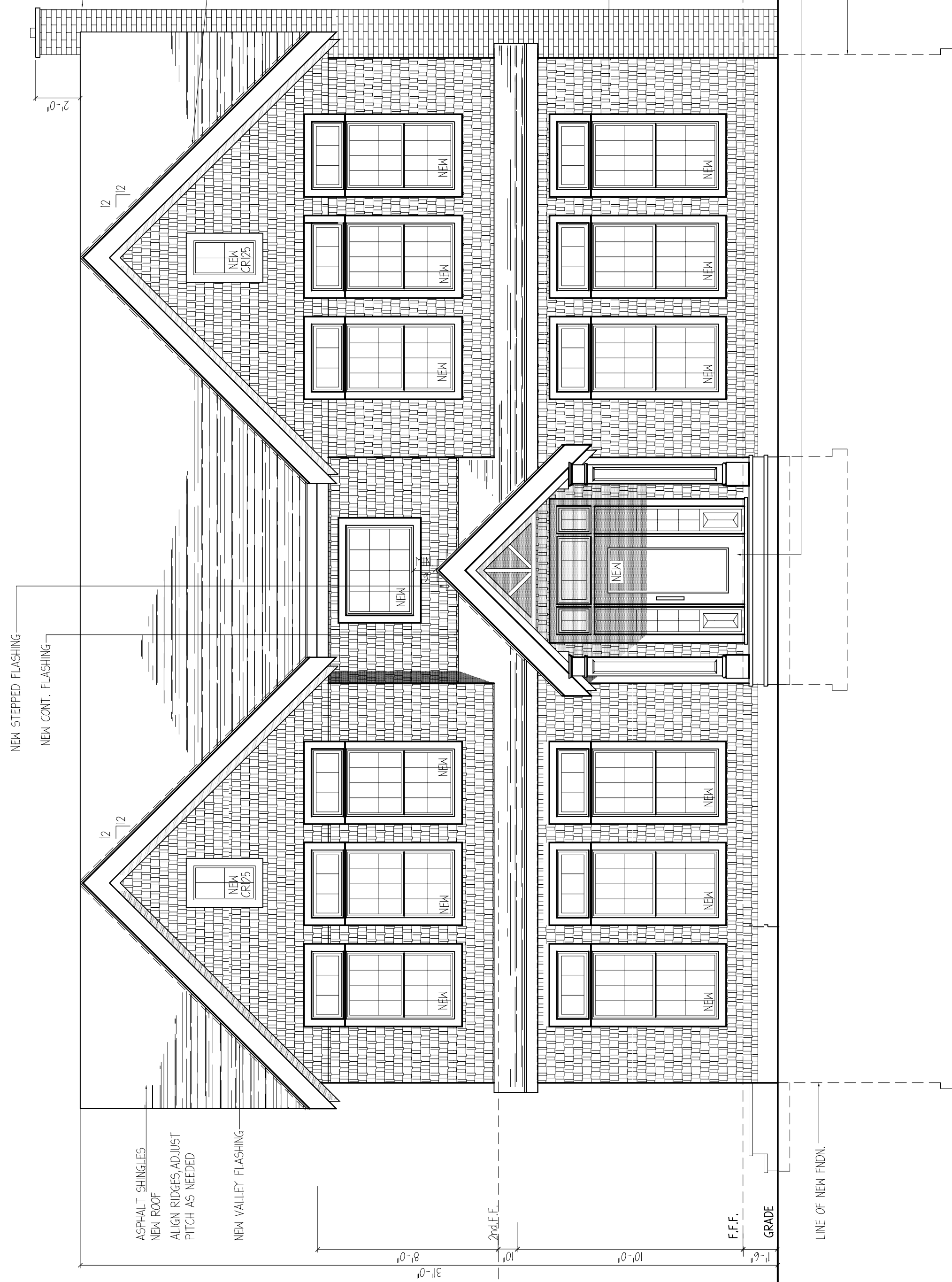
One storage shed

No. of Buildings 11 (Eleven)...

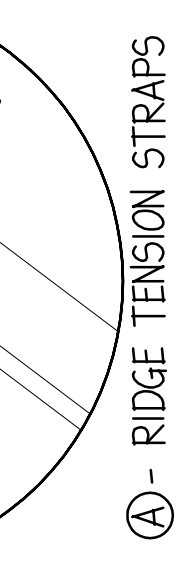
Work Completed..... Prior to October 14, 1957

Arthur B. Siegmann
Chief Building Inspector





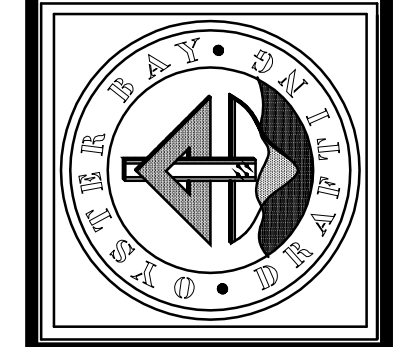
REAR ELEVATION SCALE: 1/4" = 1'-0"



FRONT ELEVATION SCALE: 1/4" = 1'-0"

REVISIONS TO PRELIMINARY DRAWINGS:	
#	DATE
1	AS PER OWNER
2	AS PER OWNER
3	AS PER OWNER
4	AS PER OWNER
5	AS PER OWNER
6	
7	

REVISIONS TO FINAL DRAWINGS:	
#	DATE
1	
2	
3	
4	
5	
6	
7	



SHEET TITLE: CONSTRUCTION DOCUMENTS
 PROJECT NAME: GOSSELIN RESIDENCE
 49 OLD WESTHAMPTON RD., RIVERHEAD NY, 11901
 OYSTER BAY DRAFTING AND ARCHITECTURE, P.C.
 68 WEST MAIN STREET OYSTER BAY NY, 11771
 (516) 922-5976 (FAX) 922-6235
 WWW.OYSTERBAYDRAFTING.COM EMAIL: ARCHITECT@OYSTERBAYDRAFTING.COM
 SHEET NO. 10 OF 10
 DATE: 5/7/2023
 SCALE: AS NOTED
 BY: M.M.
 JOB NO. 23010