

**Supplemental Draft Generic Environmental Impact Statement  
for the Central Pine Barrens  
Comprehensive Land Use Plan Amendments**

Project Location: Central Pine Barrens within the  
Town of Brookhaven, Town of Riverhead and  
Town of Southampton and  
Village of Quogue and Village of  
Westhampton Beach  
Suffolk County, New York

Lead Agency, Preparer and Contact: Central Pine Barrens Joint Planning and  
Policy Commission  
624 Old Riverhead Road  
Westhampton Beach, NY 11978

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

Contact: Judith Jakobsen, Executive Director  
Phone: (631) 288-1079

Date of Acceptance: March 16, 2022

Deadline for Comments: May 31, 2022 at 12:00 p.m.

Availability of Document: This document represents a Supplemental  
Draft Generic Environmental Impact  
Statement (SDGEIS) pursuant to a positive  
declaration issued by the Lead Agency.  
Copies are available for public review and  
comment at the office of the lead agency and  
on the website at: <https://pb.state.ny.us/>  
Copies are also available at the Town Clerk's  
offices in the Towns of Brookhaven,  
Riverhead and Southampton and Village  
Clerks in the Villages of Quogue and  
Westhampton Beach.

## Table of Contents

<b>Chapter 1:</b>	<b>Executive Summary</b>	<b>Page Number</b>
A.	Introduction.....	1
B.	1995 Plan and SEQRA.....	2
C.	Plan Amendments.....	2
D.	Potential Adverse Environmental Impacts.....	8
	4.3.11 Tall Structure.....	8
	4.3.5.5.1 #1 through 4.....	9
	5.3.3.1.5 Nitrate-nitrogen.....	9
	5.3.3.4.1 Non-disturbance buffers.....	9
	5.3.3.6 Coordinated Design for Open Space, Habitat and Soil Protection .....	10
	5.3.3.6.1 Vegetation Clearance Limits.....	10
	5.3.3.6.1.7 development sites with pre-existing clearing.....	12
	5.3.3.6.2 Open space standard requirement, unfragmented open space and habitat .....	12
	5.3.3.6.7 Invasive plant species mitigation.....	13
	5.3.3.7.1 Invasive Species Mitigation .....	13
	5.3.3.7.2 Bird conservation and protection.....	13
	5.3.3.9.1 Light Pollution Prevention .....	13
	5.3.3.11.1 Tall structures and scenic resources.....	14
E.	Mitigation.....	14
	Summary of Mitigation Measures in the 1994 DGEIS.....	14
	Summary of Mitigation Measures in the Plan Amendments.....	16
F.	Alternatives.....	16
	1995 GEIS Alternatives.....	17
	Alternatives to the Plan Amendments.....	18
G.	Adoption and Implementation Process.....	20
<b>Chapter 2:</b>	<b>Proposed Action</b>	
A.	Introduction.....	1
B.	Plan Amendments.....	2
	Chapter 4: Review Procedures and Jurisdiction.....	3
	Chapter 5: Standards and Guidelines for Land Use.....	4
	Chapter 6: Pine Barrens Credit Program.....	5
C.	Framework of the Analysis.....	14
D.	Central Pine Barrens.....	15
	Long Island Pine Barrens Protection Act.....	15
	Five-Year Review.....	16
	Critical Environmental Areas.....	17
E.	1994 Draft Generic Environmental Impact Statement (GEIS), 1995 Supplement DGEIS and Findings Statement.....	17
F.	Central Pine Barrens Boundary.....	18

G.	Central Pine Barrens Comprehensive Land Use Plan Implementation.....	19
	Compatible Growth Area.....	20
	Core Preservation Area.....	21
H.	Purpose, Need and Benefits.....	22
I.	Required Approvals and Regulatory Framework.....	22
	Municipal Code Amendments.....	22
	State Environmental Quality Review Act and Involved Agencies.....	22
J.	Summary of Land Use Plans in the Central Pine Barrens.....	23
	Town of Brookhaven.....	23
	Town of Riverhead.....	24
	Town of Southampton.....	24
	Suffolk County .....	25
	New York State Department of Environmental Conservation.....	25
	New York State Department of State.....	25
K.	1995 and Current Land Use.....	26
	GEIS Data.....	26
	Existing Conditions.....	29
L.	1995 and Current Demographics – Population and Housing.....	33
	GEIS Summary.....	33
	Existing Conditions – Demographics.....	36
M.	1995 and Current Zoning.....	37
	GEIS Summary.....	38
	Existing Conditions.....	38
N.	Community Facilities and Services.....	38
	Educational and Social Services Institutions.....	38
	Police and Fire Protection Services.....	39
	Health Care and Medical Facilities.....	39
	Recreational Facilities.....	39
	Public Water Supply.....	39
	Solid Waste Disposal.....	40
	Sewage Treatment Plants.....	40
	Transportation.....	40
	Energy and Utilities.....	41
	Communications Facilities.....	41
	Residential Roadfront Exemption List.....	42
	Hardship Waivers.....	42

**Chapter 3: Land Use, Zoning and Public Policy**

A.	Introduction.....	1
B.	1994 Draft Generic Environmental Impact Statement (GEIS), 1995 Supplemental DGEIS and Findings Statement.....	2
	GEIS Findings Statement.....	3
C.	Potential Impacts of the Plan Amendments.....	4
	Overview.....	4
	Core Preservation Area.....	6
	Compatible Growth Area.....	6
D.	SEQRA GEIS Criteria.....	31
	Alternatives.....	32
	Long-term.....	33
	Short-term.....	33

	Irreversible and Irretrievable Impacts.....	33
	Growth Inducing Impacts.....	34
	Energy and Solid Waste.....	34
	Agriculture, Recreational and Open Space Resources.....	34
	Land Acquisitions.....	35
	Water Resources.....	35
	Review of SEQRA Criteria for Determining Significance.....	36
	Air Quality, Traffic, Solid Waste, Recharge and Stormwater.....	37
	Ecological Resources.....	38
	Cultural, Historic and Archaeological Resources.....	39
	Other Regulatory Authorities.....	40
	Preservation of Resources.....	40
	Recreational and Agricultural Resources.....	40
	Cumulative Impacts.....	41
E.	Mitigation Measures.....	43

**Chapter 4: Ecological Resources**

A.	Introduction.....	1
B.	Ecological Resources.....	1
	1994 Draft Generic Environmental Impact Statement (GEIS), 1995 Supplement	
	DGEIS, and Findings Statement.....	1
	Core Preservation Area Impacts.....	2
	Non-Core Impacts.....	3
C.	Regulatory Context.....	4
	NYSDEC Article 11 New York State Endangered Species .....	4
	New York State Wild, Scenic and Recreational Rivers.....	5
	New York State Freshwater Wetlands.....	5
	New York State Tidal Wetlands.....	6
D.	Potential Impacts of the Plan Amendments.....	8
	Core Preservation Area.....	8
	Compatible Growth Area.....	8
	Summary of Potential Impacts.....	21
E.	Mitigation Measures.....	21

**Chapter 5: Water Resources**

A.	Introduction.....	1
B.	Water Resources.....	1
	1994 Draft Generic Environmental Impact Statement (GEIS), 1995 Supplemental	
	DGEIS and Findings Statement.....	1
C.	Existing Conditions.....	7
	Core Preservation Area.....	7
	Compatible Growth Area.....	8
	Water Quality Plans.....	8
	Land Preservation and Acquisition for Water Quality Protection.....	9
D.	Potential Impacts of the Plan Amendments.....	11
	Core Preservation Area.....	12
	Compatible Growth Area.....	12
	Summary.....	16
E.	Mitigation Measures.....	16

**Chapter 6: Geological Resources: Soils and Topography**

A. Introduction.....1  
B. Geological Resources.....1  
    1994 Draft Generic Environmental Impact Statement (GEIS), 1995 Supplemental  
    DGEIS and Findings Statement.....1  
    1995 GEIS Summary.....2  
C. Existing Conditions.....3  
    Core Preservation Area.....3  
    Compatible Growth Area.....3  
D. Potential Impacts of the Plan Amendments.....4  
    Core Preservation Area.....4  
    Compatible Growth Area.....4  
    Summary.....10  
E. Mitigation Measures.....10

**Chapter 7: Scenic, Historic, and Cultural Resources**

A. Introduction.....1  
B. Scenic, Historic and Cultural Resources.....1  
    1994 Draft Generic Environmental Impact Statement (GEIS), 1995 Supplemental  
    DGEIS and Findings Statement.....1  
C. Existing Conditions.....3  
    Scenic Resources.....3  
    Cultural Resources.....4  
D. Potential Impacts of the Plan Amendments.....4  
    Overview.....4  
    Core Preservation Area.....5  
    Compatible Growth Area.....5  
    Summary.....9  
E. Mitigation Measures.....9

**Chapter 8: Unavoidable Adverse Impacts**

A. Introduction.....1  
B. 1994 Draft Generic Environmental Impact Statement (GEIS), 1995 Supplemental DGEIS  
    and Findings Statement.....1  
    Demographics.....1  
C. Potential Impacts of the Plan Amendments.....2  
    Section 5.3.3.6 Coordinated Design for Open Space, Habitat and  
    Soil Protection.....2  
    Standard 5.3.3.6.1.7 Cleared Sites.....4  
    Standard 5.3.3.9.1 Light Pollution Prevention.....5

**Chapter 9: Irreversible and Irretrievable Commitment of Resources**

A. Introduction.....1  
B. 1994 Draft Generic Environmental Impact Statement (GEIS), 1995 Supplemental DGEIS and Findings Statement.....1  
C. Potential Impacts of the Plan Amendments.....2  
    Natural Resources.....3  
    Developed Resources.....4  
D. Summary.....5

**Chapter 10: Cumulative Impacts and Growth Inducing Aspects**

A. Introduction.....1  
B. 1994 Draft Generic Environmental Impact Statement (GEIS), 1995 Supplemental DGEIS and Findings Statement.....1  
    GEIS Findings.....1  
    GEIS Summary.....1  
C. Potential Impacts of the Plan Amendments.....2

**Chapter 11: Effects on the Use and Conservation of Energy**

A. Introduction.....1  
B. 1994 Generic Environmental Impact Statement (GEIS), 1995 Supplement DGEIS and Findings Statement.....1  
C. Potential Impacts of the Plan Amendments.....1

**Chapter 12: Impacts on and Consistency with the Land Use Plan**

**Chapter 13: Alternatives**

A. Introduction.....1  
B. 1994 Generic Environmental Impact Statement (GEIS), 1995 Supplemental DGEIS and Findings Statement.....1  
    1994 Draft GEIS Alternatives.....1  
    1995 Supplemental DGEIS Alternatives.....2  
C. Plan Amendments Alternatives Analysis.....4  
    No Action Alternative.....4  
    Ministerial Amendments Alternative.....5  
D. Alternatives – Ecological Resources.....14  
    No Action Alternative .....14  
    Ministerial Amendments Alternative.....16  
E. Alternatives – Water Resources.....17  
    No Action Alternative .....17  
    Ministerial Amendments Alternative.....17  
F. Alternatives – Geological Resources.....17  
    No Action Alternative .....17  
    Ministerial Amendments Alternative.....18

G.	Alternatives – Scenic, Historic and Cultural Resources .....	18
	No Action Alternative .....	18
	Ministerial Amendments Alternative.....	19
H.	Alternatives – Growth Inducing Aspects .....	20
	No Action Alternative .....	20
	Ministerial Amendments Alternative.....	20

**List of Acronyms and Abbreviations**

**List of Appendices**

**List of Figures**

**List of References**

## **Acronyms and Abbreviations**

---

Act	Long Island Pine Barrens Protection Act
CGA	Compatible Growth Area
CPBJPPC	Central Pine Barrens Joint Planning and Policy Commission
CRA	Critical Resource Area
CEA	Critical Environmental Area
DGEIS	Draft Generic Environmental Impact Statement
DRS	Development of Regional Significance
ECL	Environmental Conservation Law
EIS	Environmental Impact Statement
FGEIS	Final Generic Environmental Impact Statement
GEIS	Generic Environmental Impact Statement
NYSDEC	New York State Department of Environmental Conservation
PBC	Pine Barrens Credit
Plan	Central Pine Barrens Comprehensive Land Use Plan
SDGEIS	Supplemental Draft Generic Environmental Impact Statement
SEQRA	New York State Environmental Quality Review Act



Appendix A

Chapter 4: Review Procedures and Jurisdiction

Chapter 5: Standards and Guidelines for Land Use

Chapter 6: Pine Barrens Credit Program

**Chapter 2: Proposed Action**

Figure 2-1: Chapter 4 Summary List of Amendments.....6

Figure 2-2: Chapter 5 Summary List of Amendments.....9

Figure 2-3: Chapter 6 Summary List of Amendments.....13

Figure 2-4: Central Pine Barrens Area Map.....19

Figure 2-5: Figure 2-5: Population Density in the Core Preservation Area and the Compatible Growth Area by Town, 1990 and 2010, Population per Square Mile.....36

Figure 2-6 : Figure 2-6: Housing Units in the Core Preservation Area, the Compatible Growth Area, and the Central Pine Barrens by Town, 1990 and 2010.....36

Figure 2-7: Figure 2-7: Population in the Core Preservation Area, Compatible Growth Area and the Central Pine Barrens by Town, 1990 and 2010.....37

**Chapter 3: Land Use, Zoning, and Public Policy**

Figure 3-1: Chapter 4 Summary List of Amendments and Impacts.....7

Figure 3-2: Chapter 5 Summary List of Amendments and Impacts.....13

Figure 3-3: Chapter 6 Summary List of Amendments and Impacts.....27

**Chapter 13: Alternatives**

Figure 13-1: Chapter 4 Summary List of Amendments

Figure 13-2: Chapter 5 Summary List of Amendments

Figure 13-3: Chapter 6 Summary List of Amendments

---

## References

- 1995 Central Pine Barrens Comprehensive Land Use Plan, Volumes I and II, and the corresponding GEIS, Supplemental GEIS, and SEQRA Findings, and references used in their preparation
- New York State Environmental Conservation Law Article 57
- Local Code Amendments and Implementation of the CLUP (also listed below in the Outline of the Proposed SDGEIS):
  - *TOWN OF BROOKHAVEN CHAPTER 85 ARTICLE XXV*
  - *TOWN OF RIVERHEAD CHAPTER 108 ARTICLE XXV*
  - *TOWN OF SOUTHAMPTON CHAPTER 330 ARTICLE XXIV*
  - *VILLAGE OF QUOGUE ZONING CODE*
  - *VILLAGE OF WESTHAMPTON BEACH ZONING CODE*
- Applicable Agency plans (also listed below in the Outline of the Proposed SDGEIS):
  - Town of Brookhaven Plans
    - *Carmans River Conservation and Management Plan and Generic Environmental Impact Statement (2013)*
    - *County Road 51 Corridor Land Use Plan (2007)*
    - *Gordon Heights Land Use Plan (2011)*
    - *Middle Country Road Land Use Plan for Coram, Middle Island and Ridge (2006)*
    - *Route 25A Mount Sinai to Wading River Land Use Plan (2012)*
    - *Town of Brookhaven Comprehensive Plan (1996)*
  - Town of Riverhead Plans
    - *Enterprise Park at Calverton Subdivision Map and Urban Renewal Plan (draft)*
    - *Naval Weapons Industrial Reserve Plant, Calverton (1997)*
    - *Route 25A – Wading River Planning and Zoning Report (2012)*
    - *Town of Riverhead Comprehensive Plan (2003)*
  - Town of Southampton Plans
    - *400+ Sustainability Element Update to the Town of Southampton Comprehensive Plan (2012)*
    - *Draft Feasibility Study Map and Plan for Flanders Riverside, Suffolk County,*

- New York Flanders Riverside Corridor Sewering Feasibility Study (2013)*
- *East Quogue Land Plan and Generic Environmental Impact Statement (2008)*
- *Eastport/Speonk/Remsenburg/Westhampton Area Study (2004)*
- *Flanders-Northampton-Riverside Revitalization Study (2004)*
- *Hampton Bays Corridor Strategic Plan, Cumulative Impact of Buildout Study and Generic Environmental Impact Statement (2013)*
- *Southampton Tomorrow Comprehensive Plan Update Implementation Strategies, Southampton, New York (1999)*
- *Gabreski Airport Planned Development District Master Plan (2007)*
- *Riverside Revitalization Action Plan and Generic Environmental Impact Statement (2015)*
- *Riverside Urban Renewal Plan (2009)*
- *Town of Southampton Community Preservation Fund Community Preservation Project Plan (2005)*
- *Town of Southampton Wireless Communications Plan (2007)*

➤ Suffolk County Plans

- *Agricultural and Farmland Protection Plan (1996)*
- *Gabreski Airport Proposed Land Use Plan (2007)*
- *Comprehensive Master Plan 2035*
- *Suffolk County Airport Study (1990)*
- *Suffolk County Comprehensive Water Resources Management Plan (2015)*
- *Suffolk County Transfer of Development Rights Study (2014)*

➤ New York State Programs

- *New York State Department of Environmental Conservation Wild, Scenic and Recreational Rivers Program*
- *New York State Department of Environmental Conservation Freshwater Wetlands Program*
- *New York State Department of Environmental Conservation Tidal Wetlands Program*
- *New York State Department of Environmental Conservation Endangered Species Program*
- *New York State Department of Environmental Conservation Protection of Waters Program*
- *New York State Coastal Zone Management Act and Program*

- Connecticut Office of Legislative Research. 2006. Impact of Open Space on Property Values

<https://www.cga.ct.gov/2006/rpt/2006-R-0344.htm>

- Trust for Public Land. 2012. The Economic Benefits of New York's Environmental Protection Fund.

<https://www.tpl.org/economic-benefits-new-yorks-environmental-protection-fund#sm.0001f4pwhc13emd0qy4orv1zzdqvl>

**A. INTRODUCTION**

In 1993 New York State adopted the Long Island Pine Barrens Protection Act, which designated an area of Suffolk County within the Towns of Brookhaven, Riverhead and Southampton and the Villages of Quogue and Westhampton Beach as the Central Pine Barrens. The Act declared the Central Pine Barrens as a major resource area of statewide significance where the hydrogeological and ecological integrity is endangered.

The Central Pine Barrens encompasses an area of more than 106,000 acres in Suffolk County. The Act defines two geographic areas, the overall Central Pine Barrens and the smaller Core Preservation Area, contained within the larger area. Those portions of the Central Pine Barrens which are not within the Core are referred to as the Compatible Growth Area (CGA).

In order to protect unique features of the area, the Act required the preparation and implementation of a State supported regional comprehensive plan. The Act also established the Central Pine Barrens Joint Planning and Policy Commission (the Commission) and charged it with preparing and implementing the Comprehensive Land Use Plan (the Plan). Upon completion of the environmental review process, on June 28, 1995, the Commission adopted the Plan Volumes 1 and 2. Volume 1 outlines Policies, Programs and Standards. Volume 2 contains Existing Conditions.

In accordance with Section 57-0121 of the Act, in the CGA, the Plan is required to preserve and maintain the essential character of the existing Pine Barrens environment, to protect the quality of surface and groundwaters, discourage piecemeal and scattered development, and encourage appropriate patterns of compatible residential, commercial, agricultural and industrial development in order to accommodate regional growth influences, and to provide for such growth in an orderly way, protecting the Pine Barrens environment from individual and cumulative adverse impacts.

The Act directed that once every five years the Commission shall review and make amendments to the Comprehensive Land Use Plan and update the GEIS. In 2010, the Commission initiated a review process to examine Chapters 4, 5 and 6 of the Plan including review procedures, standards and guidelines and the Pine Barrens Credit Program. A set of Plan Amendments were agreed upon after a lengthy process of assessing past practices and refining provisions to achieve the goals and objectives of the Act. The purpose of this SDGEIS is to evaluate the potential impacts the proposed action, the Plan Amendments, may have on the Central Pine Barrens area.

## **B. 1995 PLAN AND SEQRA**

The Commission prepared the Plan according to the requirements of the Act. The Plan was classified as a Type 1 Action under SEQRA which required a Draft GEIS to be prepared to evaluate the potential environmental impacts the Plan may have on the Central Pine Barrens area. The Draft GEIS was accepted by the Commission on July 13, 1994. The DGEIS identified that the objectives of the Plan were to ensure the preservation of the pine barrens ecology and the high quality of groundwater within the Central Pine Barrens area and to balance the public and private interests in development.

A Supplemental Draft GEIS was prepared in April 1995 to address elements of the Plan which were changed or added subsequent to the DGEIS. The Final GEIS was filed on June 12, 1995, and on June 23, 1995 after considering the Draft GEIS, Supplemental DGEIS and FGEIS, a Findings Statement was issued by the Commission and the Plan was approved in final form on June 28, 1995 and signed into law by the Commission and the Governor.

The Plan specifies that development, as defined in the Act, within the Core Preservation Area is prohibited or is to be redirected to areas outside the Core and, further, that the only development that may be allowed is that permitted under a hardship exemption granted by the Commission as authorized by the Act. The Plan and the Act were amended in 2001 to state that construction of one single-family residence and customary accessory uses is a non-development activity, pursuant to Section 57-0107(13)(x) of the Act, on parcels in the Core that are identified in Chapter 9 of the Plan, Figure 9-1 titled, "Core Roadfront Residential Parcel Exemption List."

### Revisions to the Central Pine Barrens Geographic Area

The Act identified two specific geographic areas within the Central Pine Barrens, which currently totals approximately 106,482 acres: the Core Preservation Area (the Core), comprised of 57,817 acres, and the Compatible Growth Area (the CGA), comprised of 48,665 acres. The Act was amended three times to expand the region: once in 1998 to add lands known as Wertheim National Wildlife Refuge, the second time in 2015 to expand the region in the watershed of the Carmans River and the third in 2018 to add environmentally sensitive portions of Shoreham north of State Route 25A and public lands in Mastic. The expansions and changes to the regional boundary occurred solely in the Town of Brookhaven.

## **C. PLAN AMENDMENTS**

Section 57-0121(13) of the Act stipulates that not less than once every five years the Commission shall review and make amendments to the Comprehensive Land Use Plan and update the GEIS. In 2005, the Commission identified sections of the Plan in which amendments should be considered. In the course of developing these amendments, the Commission expended significant time and effort to examine and analyze the Plan and

commenced a review and exhaustive study of past practices of the Commission and implementation of the Plan by the Towns of Brookhaven, Riverhead, and Southampton. As a result of this comprehensive study and review, from 2005 to 2010, the Commission drafted and prepared a set of Plan Amendments to Chapters 4: Review Procedures, Chapter 5: Standards and Guidelines for Land Use and Chapter 6: Pine Barrens Credit Program. The complete set of Plan Amendments was coordinated with other agencies in March 2015. The three chapters containing Plan Amendments are in the appendix.

From September 2010 to February 2016, the Plan Amendments were reviewed by Commission Members, Designated Representatives and the Central Pine Barrens Advisory Committee in 28 work sessions that included an extensive assessment, feedback and refinement of these amendments. The proposed action, adoption of the Plan Amendments, is classified as a Type I Action pursuant to Section 617.4(b)(1) of the New York State Environmental Quality Review Act (SEQRA) regulations. The Commission prepared a Full Environmental Assessment Form (EAF) Part I and coordinated with Involved Agencies including the Towns of Brookhaven, Riverhead and Southampton and the Villages of Quogue and Westhampton Beach, both for the purpose of seeking designation as Lead Agency and for the purpose of conducting an initial review of the proposed action.

The Commission prepared Parts 2 and 3 of the Full EAF. The amendments in Chapters 4, 5 and 6 were circulated to other agencies in the SEQRA Coordination process. On April 15, 2015, with no objection from other Involved Agencies, the Commission assumed Lead Agency for the action and adopted a Positive Declaration requiring the preparation of a Supplemental Draft Generic Environmental Impact Statement (SDGEIS). The Commission adopted the Draft Scoping Document on September 16, 2015 and released it for public review. Comments were received and incorporated into the Final Scope. The Final Scoping Document was adopted by the Commission on February 17, 2016. This Environmental Impact Statement addresses the items identified in the Final Scoping Document.

The Plan Amendments cover a range of environmental subjects that are relevant to the goals and objectives of the Act and the Plan including, but not limited to, water resources, ecological resources, scenic and historic resources and geological resources. All of the Plan Amendments are tied to Commission jurisdiction in the Act and the Plan as well as to existing policy, precedents and current practice. The majority of Plan Amendments are ministerial in nature, comprised of administrative updates including word or term additions to the text, combining similar themes and inserting references to current sources. Where non-ministerial amendments are proposed, the SEQRA analysis identifies and discusses potential significant adverse environmental impacts. As the Plan is primarily designed to protect the Central Pine Barrens environment, many general mitigation measures have been incorporated into Plan during the planning process to minimize environmental impacts in the Central Pine Barrens area. The Plan Amendments aim to be more protective of the resources of the Central Pine Barrens and to ensure the Compatible Growth Area (CGA) is developed as planned in a compact, efficient, and orderly pattern while it continues to function as an ecological buffer to the Core Preservation Area. This representation is



supported by the research and conditions described in Volume 2 of the Plan, the design of the CGA and the goals and objectives for the CGA that are outlined in the Act and regulated by the Plan.

The Plan Amendments are the subject of and the action evaluated in this DGSEIS. The Plan Amendments are in three chapters of the Plan including:

- Chapter 4: Review Procedures
- Chapter 5: Standards and Guidelines for Land Use
- Chapter 6: Pine Barrens Credit Program

The Plan Amendments in Chapter 4, Review Procedures, specify coordination between agencies, clarify definitions based on past resolutions and policies of the Commission, update maps and ownership of Critical Resource Areas, and refine as well as add definitions of projects that achieve the threshold for a Development of Regional Significance.

The Plan Amendments in Chapter 5, Standards and Guidelines for Land Use, reorganize, consolidate and combine similar provisions that relate to County or State codes or regulations such as Suffolk County Department of Health Services codes pertaining to sanitary code compliance and industrial materials storage and New York State Department of Environmental Conservation regulations pertaining to wetlands, buffers and species protection. One significant Plan Amendment in Chapter 5 pertains to vegetation clearing, open space and habitat protection. This includes refinements to the existing clearing requirements and methodologies for prioritizing which areas of a project site should be set aside as open space. Additional provisions include a requirement to set aside open space on project sites that are already cleared of existing natural vegetation.

The Plan Amendments in Chapter 5 also allow for self-heal restoration and implementation of self-heal recovery on a project site. Open space design and implementation are described and illustrated in a guidance document included in the Plan Amendments entitled, “Draft Conservation Design and Open Space Management Manual for Development Projects in the Central Pine Barrens” and requirements for native and non-native revegetation are also included. Other amendments relate to current region-wide initiatives and consistency with existing practices in the Central Pine Barrens Towns and Villages and in SEQRA including provisions for invasive species management, dark skies compliance, and protection of scenic resources.

The Plan Amendments in Chapter 6, Pine Barrens Credit Program, include references to provisions that apply to lands in the expanded Core Preservation Area in the Carmans River Watershed in the Town of Brookhaven pursuant to the State Legislature’s amendment to New York State Environmental Conservation Law Article 57, effective January 1, 2014, including the method of allocating Pine Barrens Credits. Other Plan Amendments codify past practices of the Commission while others refine Pine Barrens Credit redemptions

policies, the Letter of Interpretation process, Pine Barrens Credit transaction requirements and the issuance of Pine Barrens Credits when a land use violation exists. Expansion of the Core in Shoreham in Brookhaven Town, effective January 1, 2019, results in no amendments at present.

The majority of amendments comprise ministerial or administrative changes to Chapters 4, 5, and 6 of the Plan. The **non-ministerial** Plan Amendments are identified by an asterisk and are underlined. The non-ministerial items are smaller in number, and they required greater evaluation and analysis. Plan Amendments are proposed in specific sections of the Plan as follows:

- ***Chapter 4: Review Procedures and Jurisdiction***
  - *4.2 Intent*
  - *4.3 Definitions*
    - *4.3.2 Plan*
      - *4.3.5.1 Interpretation of “nondevelopment” provision 57-0107(13)(xiii)*
      - *4.3.9 Project Site*
      - *4.3.10 Self-Heal Restoration, Self Restoration*
      - **4.3.11 Tall Structure\***
    - *4.5.2 Development located within the Compatible Growth Area which does not conform to the standards contained in Volume 1, Chapter 5 of the Plan (“nonconforming development”)*
      - *4.5.2.1 Nonconforming development: Filing of an application*
      - *4.5.2.3 Nonconforming development: Completeness determination deadline*
    - *4.5.3 Development located within the Compatible Growth Area which has been subjected to a petition by the Commission pursuant to ECL Section 57-0123(2) (“assertion development”)*
      - *4.5.3.2 Assertion development: Hearings and assertion of review jurisdiction*
      - *4.5.3.3 Assertion development: Review standards*
    - *4.5.4 Development located within the Compatible Growth Area which is also located within a Critical Resource Area (“CRA development”)*
      - *4.5.4.1 CRA development: Definition of Critical Resource Areas*
        - *4.5.4.1.1 Brookhaven Town Critical Resource Areas*
        - *Figure 4-1 depicts existing Critical Resource Areas in the Town of Brookhaven.*
        - *4.5.4.1.2 Southampton Town Critical Resource Areas*
        - *Figure 4-4: Critical Resource Areas in the Southampton Town CGA*
      - *4.5.4.2 CRA development: Review standards*
      - *4.5.4.3 CRA development: Application and hearing*
      - *4.5.4.4 CRA development: Decision on the application*
      - *4.5.4.5 CRA development: Default decisions*

- 4.5.5 *Developments of Regional Significance located within the Compatible Growth Area (“DRS development”)*
  - 4.5.5.1 *DRS development: Definition of a Development of Regional Significance*
  - 4.5.5.1 #1 *Non-residential floor area, exceeds 300,000 square feet of gross floor area\**
  - **4.5.5.1 #2 Residential, 200 or more residential units\***
  - **4.5.5.1 #3 Mixed Use, development of 400,000 square feet or greater\***
  - **4.5.5.1 #4 Development of surface water features that expose groundwater\***
  - 4.5.5.2 *DRS development: Review standards*
  - 4.5.5.3 *DRS development: Application and hearing*
  - 4.5.5.4 *DRS development: Decision on the application*
  - 4.5.5.5 *DRS development: Default decisions*
- **Chapter 5: Standards and Guidelines for Land Use**
    - 5.1 *Central Pine Barrens overall area*
    - 5.3.1 *Applicability and other policies*
    - 5.3.2 *State Environmental Quality Review Act*
    - 5.3.3 *Intent and Compatible Growth Area standards*
    - 5.3.3.1 *Sanitary waste, nitrate-nitrogen and other chemicals of concern*
    - 5.3.3.1.1 *Suffolk County Sanitary Code Article 6 compliance*
    - 5.3.3.1.2 *Sewage treatment plant discharge*
    - 5.3.3.1.3 *Suffolk County Sanitary Code Articles 7 and 12 compliance*
    - 5.3.3.1.4 *Commercial and industrial compliance with the Suffolk County Sanitary Code*
    - **5.3.3.1.5 Nitrate-nitrogen goal\***
    - 5.3.3.3 *Wellhead and groundwater protection*
    - 5.3.3.3.1 *Significant discharges and public supply well locations*
    - 5.3.3.4 *Wetlands, and surface waters and stormwater runoff*
    - **5.3.3.4.1 Nondisturbance buffers\***
    - 5.3.3.4.2 *Wild, Scenic and Recreational Rivers Act compliance*
    - 5.3.3.4.3 *Stormwater recharge*
    - 5.3.3.4.4 *Reduction of Impervious Surfaces*
    - 5.3.3.4.5 *Natural recharge, drainage, and ponds*
    - **5.3.3.6 Natural vegetation and plant habitat Coordinated design for open space, habitat and soil protection\***
    - 5.3.3.6.1 *Vegetation clearance limits*
      - 5.3.3.6.1.1
      - **Figure 5-1: Clearance and Open Space Standards\***
      - 5.3.3.6.1.2 *(non-contiguous parcels)*
      - 5.3.3.6.1.3 *(split-zoned parcels)*

- 5.3.3.6.1.4 (RODs and PBC redemption)
  - 5.3.3.6.1.5 (environmental restoration and revegetation)
  - 5.3.3.6.1.6 (parcels split between CGA and Core with PBCs)
  - **5.3.3.6.1.7 (development sites with pre-existing clearing)\***
- **5.3.3.6.2 Open space standard requirement, unfragmented open space and habitat\***
- 5.3.3.6.3 Fertilizer-dependent vegetation limit
- 5.3.3.6.4 Native plantings
- 5.3.3.6.5 Receiving entity and protection for open space areas
- 5.3.3.6.6 Buffer delineations, covenants and conservation easements
- **5.3.3.6.7 Invasive plant species mitigation\***
- **5.3.3.6.7.1 Invasive Species Mitigation\***
  
- 5.3.3.7 Species and communities of special concern protection and conservation of species and communities
- 5.3.3.7.1 Special species and ecological communities
- **5.3.3.7.2 Bird conservation and protection\***
- **5.3.3.9 Dark sky compliance\***
- **5.3.3.9.1 Light pollution prevention\***
- 5.3.3.11 Scenic, historic and cultural resources
- **5.3.3.11.1 Tall structures and scenic resources\***
- 5.3.3.11.2 Cultural resource consideration
- 5.3.3.11.3 Inclusion of cultural resources in applications
- 5.3.3.11.4 Protection of scenic and recreational resources
- 5.3.3.11.5 Roadside design and management
- Figure 5-2: Scenic Roads and Areas in the Central Pine Barrens
  
- **Chapter 6: Pine Barrens Credit Program**
  - 6.3 Allocation of Pine Barrens Credits
    - 6.3.1 Method of allocation
  - 6.4.2.1 Brookhaven Pine Barrens Credit Program overview
  - 6.4.2.2 Brookhaven “As of Right” Residential Overlay District specifications
    - 6.4.2.2.4 Brookhaven criteria
  - 6.4.2.3 Innovative strategies for the redemption of Brookhaven Pine Barrens Credits
    - 6.4.2.4.1 Transfers from Hydrogeologic Zone 3 to Hydrogeologic Zone 6
  - Figure 6-3: Brookhaven Residential Overlay District as of right receiving area map
  - Figure 6-4: Riverhead as of right receiving area map - Area “A” Calverton
  - Figure 6-4 (p.2): Riverhead as of right receiving area map - Area “B” West Main Street

- *New Figure with new Riverhead Receiving Areas (no figure #)*
- *Figure 6-5 (p2) Riverhead Receiving Area Parcels*
- *Figure 6-7: Southampton as of right receiving area map*
- *Figure 6-7 (p.2): Southampton as of right receiving area map*
- *Figure 6-7 (p.3): Southampton as of right receiving area map*
- *Figure 6-7 (p.4): Southampton as of right receiving area map*
- *Figure 6-7 (p.5): Southampton as of right receiving area map*
- *6.4.5 Suffolk County Sanitary Code*
- *6.5.4 Intermunicipal redemptions of Pine Barrens Credits*
- *6.5.5 Permanency of Pine Barrens Credit Redemptions*
- *6.5.6 Redemption of Pine Barrens Credits within the Core Preservation Area prohibited*
- *6.7.3 Detail of Step 1: Obtaining a Letter of Interpretation*
  - *6.7.3.4*
  - *6.7.3.5*
  - *6.7.4.3*
- *6.7.6.6 Issuance of a full Pine Barrens Credit for certain roadfront parcels*
- *6.7.6.8 Issuance of Pine Barrens Credits to a Parcel with a Land Use Violation*
- *6.7.6.9 Transactions involving Pine Barrens Credits*

#### **D. POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS**

Pursuant to subdivision 617.7(a) of the SEQRA regulations, the Commission has determined that the proposed action may include the potential for one or more significant adverse environmental impacts potentially occurring due to:

- A potential substantial change in the use or intensity of use of land including agricultural, open space or recreational resources, or in the capacity to support existing uses;
- The potential creation of a material conflict with a community's current plans or goals as officially approved or adopted.

This section provides a summary of non-ministerial Plan Amendments identified in the analysis.

##### 4.3.11 Tall Structure

An amendment is proposed in Chapter 4 which contains a new definition regarding tall structures. This new definition categorizes such structures as those proposed structures

which will be at 75 feet or higher above an unaltered site grade. This definition is coupled with a new amendment in Chapter 5, Guideline 5.3.3.11.1 Tall structures and scenic resources, and is meant to ensure increased review over such structures which may potentially affect scenic resources. This definition by itself will not result in any significant adverse environmental impacts. The associated guideline and any associated environmental impacts are discussed below.

4.5.5.1 #1 Non-residential floor area, exceeds 300,000 square feet of gross floor area

4.5.5.1 #2 Residential, 200 or more residential units

4.5.5.1 #3 Mixed Use, development of 400,000 square feet or greater

These three Chapter 4 amendments create three modified Development of Regional Significance (DRS) thresholds which are intended to replace three existing DRS thresholds pertaining to residential and non-residential development. The three new thresholds clarify the DRS triggers and ensure that all applicable development is appropriately captured based on trends over the past 25 years. These thresholds will not result in any significant adverse environmental impacts.

4.5.5.1 #4 Development of surface water features that expose groundwater

This Chapter 4 amendment creates a new DRS threshold which captures a category of activities, other than those related to public water supply, which expose the groundwater table. Establishing this new threshold will ensure that adequate awareness and review of such projects occurs. As such this new threshold is not expected to result in any significant adverse environmental impacts as it will be more protective of the environment.

5.3.3.1.5 Nitrate-nitrogen

The amendments in this Guideline are non-ministerial. By amending the directive “may” to “shall,” it seeks certainty and to improve the existing guideline of 2.5 ppm of nitrate nitrogen applicable to a project that is a DRS, entails development in a CRA or is one where the Commission has asserted jurisdiction. When the guideline applies, conformance is required regardless of distance to the nearest pond and/or wetland. Revisions to this guideline will be more protective of the environment and therefore will not result in any significant adverse environmental impacts. To date, projects have successfully demonstrated conformance.

5.3.3.4.1 Nondisturbance buffers

This is a new non-ministerial amendment to cover review of projects and sites in the CGA where gaps in regulatory oversight presently exist. Included in this amendment is a proposed section which would provide protection for a small class of wetlands that are not protected or regulated by either New York State or local regulations. In such instances, the

Commission would be provided the authority to regulate such wetlands. An example of the type of project where Commission oversight may apply is on a property owned by a utility where local, county or other state regulations do not apply and a vernal pond or seasonal, unmapped, unregulated wetland habitat is present. In such a case, the boundaries of the habitat may be delineated and minimal buffers may be required to protect it. Accordingly, this amendment would increase environmental protection and therefore would not result in any significant adverse environmental impacts.

#### 5.3.3.6 Coordinated Design for Open Space, Habitat and Soil Protection

Several decades of experience in applying this section of the Plan and its accompanying standards, coupled with the evolution of land use planning and ecological management over time, has determined that a more comprehensive, integrative and holistic approach is recommended in the analysis and review of land use development projects in regard to preservation of natural vegetation, habitat and open space. Therefore, the foundational concepts and the rationale in this section, which provide the basis for the standards associated with this section, are also expanded.

This section was formerly known as “Natural Vegetation and Habitat.” It has been changed to “Coordinated Design for Open Space, Habitat and Soil Protection” to more accurately reflect its expanded and comprehensive perspective. The concepts of coordinated planning, conservation design, open space preservation, habitat preservation and prioritization are proposed to be incorporated into this section and provide support for its corresponding standards.

Conservation design, a planning methodology which emphasizes preservation of natural, historic or other significant features of a parcel while concomitantly promoting development on less-sensitive areas of a site, is now encouraged for use in creating development plans. The amendments in this section further refine the existing clearing standard and introduce a definition of open space and quantify open space as simply the opposite of or corollary to the clearing standard. As the Plan always required that the uncleared natural open space remains after the clearing limit standard is applied to a development project site, the amendments specify the amount of open space required. This amendment provides clarity and certainty in the development project review process.

##### 5.3.3.6.1 Vegetation Clearance Limits

In existing standard 5.3.3.6.1, “Vegetation Clearance Limits” (the obverse of the Open Space standard), reflected in Figure 5-1 “*Clearance and Open Space Standards*,” the Plan currently allows development in commercial, industrial, other or mixed-use zoning districts to clear to a limit of 65%. In the proposed amendments the clearing allowance for

development projects in non-residential zoning districts (e.g., commercial, industrial and categorized in the Plan amendment as “All other zoning categories, including those categories without defined zoning lot sizes”) is reduced from 65% to 60%. This change potentially increases the clearing allowance for projects on parcels owned by the State and public corporations regardless of the zoning district of the project site. This is a minor amendment that will benefit the region and is limited in scope to a discrete set of development projects. This adjustment to the clearing limit from 65% to 60% is considered minimal, reduces the amount of vegetation allowed to be removed on a project site by 5%, and increases the amount of open space required to be retained on the site by 5% which will cause a potential slightly beneficial increase in the protection of natural resources, further preserving the high quality of groundwater and the pine barrens ecology, on the project site and in the Central Pine Barrens. Therefore, this aspect of the amendment will result in no significant adverse environmental impacts.

In the current Plan, clearing in residential zoning districts is, for the most part, more restrictive than clearing in non-residential zoning districts such as commercial or industrial districts. However, currently, if a state entity or a public corporation such as a school or fire district proposes a development project on public corporation property located in a residential zoning district, the clearing allowance is based on the residential zoning of the property, as indicated by Figure 5-1 of the Plan, even though the use is more akin to that of commercially zoned sites. This has limited the ability and functionality of certain public corporations such as schools and fire districts to expand their facilities to meet the growing needs of the public in the communities they serve. Under the amendment, development proposed by schools and public corporations, for instance, would be subject to a less restrictive clearing standard rather than the underlying zoning of the property in order to allow the land use more flexibility to expand to meet the public need of the communities they serve.

The amendment seeks to accommodate the need for facilities that serve the public while still protecting the resources and essential character of the Central Pine Barrens. It is anticipated that the incremental increase in clearing over what is currently allowed for development projects for public entities would be minor since it is not expected to capture a wide range of projects. It affects only development projects of public entities which are limited in scope and in the number of parcels that would be affected in the Central Pine Barrens area. As stated in the Plan Amendment, this clearing limit would not be allowed on publicly owned lands that are dedicated for park purposes, open space or nature preserve or acquired with funds for open space preservation or parkland purposes since clearing would be precluded from occurring on these public lands. The incremental increase in clearing in this category is considered minor since it is not expected to capture a wide range of



projects, land uses, or applicants for development projects.

5.3.3.6.2 Open space standard requirement, unfragmented open space and habitat

This open space requirement is enumerated in new standard 5.3.3.6.2, “Open space standard requirement, unfragmented open space and habitat.” As part of this emphasis on open space, a new, third column entitled “Minimum Open Space Requirement” has been inserted into Figure 5-1. This addition contains a schedule of percentages of open space required. The former “Clearance Standards” table is now entitled “Clearance and Open Space Standards.” In addition, these amendments preserve open space on sites that are presently overdeveloped. The open space standard requires all development project sites to preserve open space even if they contain extensive existing clearing or overdevelopment. These open space-related amendments are more environmentally protective as they reaffirm the Plan goal that the CGA not only accommodate development and receive a portion of development transferred from the Core but the CGA is designed to serve as a buffer to the Core and to retain the integrity of the pine barrens resources including its ecological and cultural resources. Volume 2 of the Plan discussed the effectiveness of the CGA in its capacity to serve as a buffer zone to the Core depends on its size, its ecological characteristics and the human activities occurring within it. Finally, this open space component of the amendments promotes compact, efficient and orderly development in accordance with the Act and the Plan.

5.3.3.6.1.7 (development sites with pre-existing clearing)

This is a new standard which applies to over cleared sites (sites from which natural vegetation was previously cleared in excess of the current Plan clearing limits with the clearing having occurred prior to the enactment of the Act or Plan). The new standard requires development project sites that currently exceed clearing limits to set aside a portion of the site as protected open space. If the proposed open space area is not vegetated, it could be left to undergo self-heal restoration or could be actively restored through the implementation of an approved revegetation plan.

Currently, over cleared sites can be developed over the entire site including the existing cleared area, with little to no open space set aside. This allowance conflicts with one of the purposes of the CGA to function as an ecological buffer to the Core, as described in the 1994 GEIS and Plan Volume 2. Continuing this practice would, in the long-term, reduce the amount of protected open space in the CGA, thus not achieving the goals set forth in the Act and the Plan. It would produce an otherwise avoidable adverse impact to continue the process of not requiring open space on those development project sites in the CGA that are over cleared. This new standard and related aspects of the amendments support the goals

and objectives of the Act to accommodate compact, orderly and efficient development in the CGA. Furthermore, the amendments provide greater protection of the resources of the Central Pine Barrens by generating a net increase in open space in the long-term.

A discrepancy was identified in the environmental review process in the requirement for open space regardless of a site's existing condition. Specifically, Standard 5.3.3.6.1.7 will be reconciled for consistency with the other Plan Amendments to resolve this conflict in the SEQRA review process in the Final GEIS.

#### 5.3.3.6.7 Invasive plant species mitigation and 5.3.3.6.7.1 Invasive Species Mitigation

These new amendments propose a new standard and guideline related to invasive species mitigation to promote higher quality habitats on development project sites. Standard 5.3.3.6.7 applies to sites that propose to preserve 10 acres or more of open space and requires that any existing invasive species present in the proposed open space area be identified. Guideline 5.3.3.6.7.1, when applicable, allows an applicant to remove invasive species from and subsequently restore a maximum of two acres of a project site. This would potentially allow native plant species to flourish and recolonize a site. The proposed amendment will not result in any significant adverse environmental impacts in that it would be limited in applicability to a smaller, discrete set of projects which meet certain size and design thresholds and over the long-term would be environmentally as it would help to reduce the spread of invasive species and restored areas would require less management, maintenance, irrigation and applications of chemical compounds including fertilizer and herbicides.

#### 5.3.3.7.2 Bird conservation and protection

This new guideline promotes awareness and protection of birds by supporting appropriate design modifications, when applicable, to development projects. Modest design changes could reduce bird and bat mortality caused by building collisions. Implementation of this new guideline is limited to DRS, CRA and Assertions of Jurisdiction projects and is only required to "the greatest extent practicable." No adverse environmental impacts are expected as a result of this amendment.

#### 5.3.3.9.1 Light Pollution Prevention

This new standard aims for consistency with other existing local dark skies regulations. The standard requires a development project in the CGA to be dark sky compliant and applies solely to projects not subject to municipal review such as those undertaken by libraries, schools, fire districts and utilities. When applicable, this standard would complement and be consistent with existing municipal regulations in effect in the region. The amendment will create consistency in the landscape with attention to design and installation of lighting

fixtures that reduce nighttime lighting and glare, protect natural resources and conserve energy resources. This amendment is minor in nature and is consistent with current industry standards and practice. No adverse environmental impacts from this amendment are anticipated to occur.

#### 5.3.3.11.1 Tall structures and scenic resources

This new guideline is an amendment to the Plan that applies only to public corporations and other projects not subject to local municipal review. It is designed as an additional measure to protect the scenic resources of the Central Pine Barrens and applies only to pertinent structures which equal or exceed 75 feet in height. Regardless, this new guideline is not expected to result in any significant adverse environmental impacts.

Overall, the Plan Amendments are intended to protect the representative natural resources that exist in the CGA, and therefore, no adverse environmental impacts from the Plan Amendments are anticipated to occur.

## **E. MITIGATION**

### **SUMMARY OF MITIGATION MEASURES IN THE 1994 DGEIS**

The Plan, as called for under ECL Article 57, is for the most part an environmental protection plan designed to preserve the Core and sensitive environmental areas within the CGA. Mitigation measures were incorporated into the planning process to minimize environmental impacts in the Central Pine Barrens area. Mitigation for the Core, CGA and receiving areas were identified in the GEIS as follows.

#### Core Preservation Area

In the Core, mitigation measures in the Plan included:

- Preservation
- Hardship requirements for development
- Establishing the Pine Barrens Credit Program

#### Compatible Growth Area

The Plan establishes minimum standards, performance specifications and requirements which local municipalities are required to incorporate into local land use and development, review procedures, ordinances and laws, with respect to proposed development in the CGA. They also comprise the policies and standards which the Commission itself will apply to those projects

within the CGA which it directly reviews. The various policies and minimum standards as set forth by the Commission that apply to the CGA address the following areas:

- Water resources and fertilizer including, but not limited to, nitrogen loading factor, conformance with Article 6 of the Suffolk County Sanitary Code, protection of public supply wells, fertilizer-dependent vegetation limit
- Wetlands and surface waters including, but not limited to, buffers and legal protection of buffers to freshwater and tidal wetlands
- Runoff including, but not limited to, use of natural swales, on-site recharge of stormwater, ponds in place of recharge basins and not for aesthetic purposes, minimal disturbance during construction of drainage systems
- Ecological resources including, but not limited to, limiting the clearing of native vegetation, preservation of unfragmented open space, native planting suggestions, protection of significant habitat and habitat of State and Federally listed species
- Land resources including, but not limited to, clearing envelopes, slope protection, and erosion and sediment control plans in steeply slopes areas
- Clustering on a project site including, but not limited to, legal protection of open space, minimizing disturbance on slopes for roads and driveways and retaining walls
- Coordinated design to minimize clearing and maximize open space
- Open space management, including legal protection for future management, and restrictions on use
- Agriculture and horticulture, including clustering and reclaiming areas formerly used for agriculture, and Integrated Pest Management
- Scenic, historic and cultural resources including, but not limited to, establishing trail corridors, active recreation sites, scenic roads, vistas, and viewpoints, sites of historical and cultural significance, including historic districts, and sensitive archaeological areas
- Commercial and industrial development including encouraging development of vacant commercial and industrial sites in the CGA with less intensive and less potentially hazardous uses; compliance with Articles 7, 8 and 12 of the Suffolk County Sanitary

Code and preferred development in areas of existing facilities to concentrate trade and employment activities.

- Transportation including the submission of transportation-efficient designs for sites and larger areas
- Designation of 32 areas of the CGA as Critical Resource Areas (CRAs), unique and sensitive environmental areas of CGA in which proposed development projects require additional review to ensure CRA features are not significantly impacted by development

### Receiving Areas

Conformance with Articles 6, 7 and 12 of the Suffolk County Sanitary Code and density of no more than 600 gallons of sewage per day per acre and no development in receiving areas containing sensitive environmental resources.

## **SUMMARY OF MITIGATION MEASURES IN THE PLAN AMENDMENTS**

Because this is an environmental protection plan, mitigation measures have been incorporated into the planning process to minimize environmental impacts in the Central Pine Barrens area.

The majority of amendments are essentially ministerial in nature. Development in the CGA, pursuant to the Act, is subject to conformance with standards for land use. The Plan standards are essentially unchanged in the Amendments and for the most part merely reflect past and current practice and policy of the Commission established since the inception of the Act in 1993 and in decisions and resolutions adopted since then. The foundation of the Plan and the Plan Amendments can be traced to the implementation of the goals and objectives outlined in the statute. New standards that are not considered ministerial will ensure even greater protection of natural resources and the essential character of the Central Pine Barrens.

The Guidelines outlined in Chapter 5 have limited applicability to land use development projects that occur in the Compatible Growth area and apply only to projects the Commission has direct jurisdiction to review such as Assertions of Jurisdiction, CRAs and DRS projects. Otherwise, Guidelines, which are also incorporated in town codes, are advisory and reviewing agencies may voluntarily apply them to development projects.

## **F. ALTERNATIVES**

## **1995 GEIS ALTERNATIVES**

The 1995 GEIS reviewed alternatives including:

- Alternative 1: No Action
- Alternative 2: Long Island Comprehensive Special Groundwater Protection Area (SGPA) Plan
- Alternative 3: Total Acquisition of All Privately Owned Vacant Parcels in the Core Preservation Area through Direct Purchase

### ALTERNATIVE 1: NO ACTION

In the GEIS, the No Action Alternative identified the extent of land area in each Town that was privately owned, vacant, and undeveloped and the residential buildout of the area, which was estimated to total 10,286 residential housing units spanning the three Towns. In addition, the buildout of commercial and industrial zoned privately owned vacant property totaled 5,539 acres. The buildout analysis also provided the total area of clearing that would occur as a result of development, which was estimated at 11,594 acres under existing zoning. The buildout condition would have resulted in development including roads, water, electric, gas and telephone lines, sewage facilities, community facilities including educational, police, fire protection, health care, and public recreational facilities. Development under the No Action Alternative would have been spread out over the entire Central Pine Barrens including the Core and CGA, resulting in habitat fragmentation and impacts on water and ecological resources, as well as other environmental effects.

### ALTERNATIVE 2: SPECIAL GROUNDWATER PROTECTION AREA PLAN

The SGPA Plan Alternative does not contain or implement a transfer of development rights strategy that is uniquely coordinated with land use development options provided in the Plan that promote and effectuate compact, efficient and orderly development in the CGA and ensure preservation of significant contiguous areas of the Central Pine Barrens.

This Alternative discussed upzoning to five acres per unit, which would preserve most of the vacant land in each Town, specifically 12,745 acres in Brookhaven, 2,753 acres in Riverhead, and 6,004 acres in Southampton, or a total of approximately 21,502 acres. Clustering could add additional preserved land. Protection of lands in river watersheds and significant ecological communities such as the dwarf pine plains would benefit from this Plan. Transfer of development rights and land acquisitions would also occur to protect farmland and concentrate development in more centrally located areas and in a compact, efficient and orderly pattern.

### ALTERNATIVE 3: TOTAL ACQUISITION OF PRIVATE VACANT LAND IN THE CORE

This Alternative identified 32,580 acres of land in the Core that was already preserved as public land. An estimate 10,254 acres of privately owned vacant land existed in the Core. Sources of funding for acquisition included Suffolk County, New York State, Local Towns, Federal Government, and private fund raising including via entities such as The Nature Conservancy, Peconic Land Trust, Long Island Pine Barrens Society and other private sources. The average cost per acre was estimated for the timeframe of 1986 to 1992.

### **ALTERNATIVES TO THE PLAN AMENDMENTS**

The alternatives evaluated for the Plan Amendments include the:

- No Action Alternative
- Ministerial Amendments Alternative

One other alternative, the Mandatory Credit Redemption Requirement, was identified in the review process. However, it was not analyzed because it was previously proposed and underwent public review and environmental impact analysis but failed to be adopted. No support for a mandatory credit requirement existed then, and the lack of support appears unchanged. Therefore, it was eliminated as an alternative to consider in this assessment.

### NO ACTION ALTERNATIVE

In the No Action Alternative, no Plan Amendments would be adopted. The Amendments that provide clarifications and codification of established past practice of the Commission through adopted decisions and determinations would not be advanced. Past and current practice would not be formally recognized in this Alternative. However, in the No Action Alternative, it is expected that the Commission will continue to apply rationale and policies used in past decisions, whether or not the amendments are adopted. In the No Action Alternative, the Commission would continue to implement the goals and objectives of the Act and the Plan in conformance with the provisions outlined therein.

Amendments that apply to projects not subject to another regulatory jurisdiction will not be adopted in the No Action Alternative. Development projects that occur in the region that are not subject to local regulations such as some schools, libraries, and other municipal uses will continue to be developed in a pattern that may not reflect the regional resource preservation priorities and may not be consistent with other developed land uses such as

commercial sites and residential subdivisions.

Other amendments that define terms, provide clarity, are consistent with past practice, and solidify review procedures will not be adopted or implemented. Instead, the Commission will rely on current practice to utilize terms and decisions used in the past in the review of future activities.

The No Action Alternative fails to advance the achievements made to date to protect natural resources and to maintain the CGA as an ecological buffer to the Core Preservation Area while allowing compact, efficient and orderly development in the CGA.

#### MINISTERIAL AMENDMENTS ALTERNATIVE

The Ministerial Amendments Alternative would result in the adoption of only ministerial amendments. This category of amendments includes minor word edits, references to the statute, elaborated preambles, and the combining of existing provisions or standards. The Ministerial Amendments have no significant adverse environmental impacts. They reaffirm the intent of the Act and the Plan for the CGA to act as an ecological cushion to the Core and for the CGA to be developed in a compact, efficient, and orderly pattern.

In the Ministerial Amendments Alternative, the administrative changes that will be implemented include term and word additions, renumbering, and other amendments that do not result in adverse impacts, do not expand regulatory jurisdiction, and are not more restrictive than the current Plan. The Plan Amendments that enhance the breadth of Commission review or establish stricter thresholds for direct Commission review will not be implemented in this Alternative.

In the Ministerial Amendments Alternative, no amendments involving more than administrative changes would occur in Chapters 4, 5 and 6. Ministerial changes include, but are not limited to, words or terms added to section titles, combining of existing standards, or incorporating references to decisions or manuals to reflect current practice. Amendments not considered ministerial that would not be implemented include, but are not limited to, Chapter 4 amendments to DRS projects and Chapter 5 amendments to clearing limits and open space requirements. Other amendments excluded from the Ministerial Amendments Alternative pertain to new provisions including tall structures, invasive species, and bird protection. Although these amendments have limited effect and application, they support expanded protection of the natural resources of the Central Pine Barrens. They would not be included in the set of ministerial amendments.



Chapter 6 amendments involve ministerial changes including memorializing past decisions of the Commission, adding terms or other editorial changes, and clarifying the credit appeal review process. All Chapter 6 amendments are considered ministerial and would be advanced in this alternative since no substantive changes that result in significant adverse impacts are proposed in Chapter 6.

Although adoption of ministerial amendments as an alternative achieves partial progress in the Amendments process, the opportunity would be lost to advance a complete set of amendments that reaffirms the Standards and Guideline of the Act and ensures protection of the resources of the Central Pine Barrens. Long-term, the Commission may revisit a proposal to adopt more substantive amendments to the Plan that support and reinforce the intent of the Act and the Plan resulting in greater protection of the resources of the Central Pine Barrens.

A Ministerial Amendments Alternative would result in review and approval of only the ministerial or administrative Plan Amendments proposed in Chapters 4, 5 and 6. There are more ministerial amendments in the Plan Amendments than non-ministerial amendments (those that may be considered more substantive and stricter than the present Plan contains). Ministerial amendments include word edits, additions of terms in headings, and solidifying existing policies and practices established by past resolutions adopted by the Commission. The ministerial amendments identified in this Alternative include those listed in Chapters 4, 5 and 6, except for the highlighted (or underlined) sections that are considered “non-ministerial,” which would not advance in this Alternative.

## **G. ADOPTION AND IMPLEMENTATION PROCESS**

Article 57 of the Environmental Conservation Law requires that the Central Pine Barrens Commission review the effectiveness of the Plan every five years and, if appropriate, to identify areas in which amendments are required and then develop and adopt such amendments.

Once the Commission adopts a resolution accepting the Supplemental Final GEIS and schedules a public vote on the Amendments, with 30 day’s notice required, the publication of notices would occur. This would include legal notices in newspapers, on the Commission website and in the NYSDEC Environmental Notice Bulletin. Commission staff would also circulate notices of Acceptance of the Supplemental Final GEIS along with copies of the adopted document to interested parties. The Commission would then review and adopt SEQRA Findings and vote on the Plan Amendments.

Pursuant to Article 57, Section 57-0121(12), the Town Boards of the Towns of Brookhaven, Riverhead, and Southampton have ratified and adopted the Plan representing their commitment to implement the provisions contained therein. It would be necessary for the Towns to continue their commitment to the Act and the Plan by adopting the Plan Amendments and subsequently incorporating them into their Town Zoning Codes.

The Plan identifies standards in Chapter 5 which must be implemented and enforced by the Towns in reviewing proposed development in the CGA. Chapter 5 further identifies non-mandatory guidelines to be utilized and applied by the Towns on a discretionary basis.

**A. INTRODUCTION**

In 1995, the Central Pine Barrens Commission (the Commission) adopted the Central Pine Barrens Comprehensive Land Use Plan (the Plan), as required by the Long Island Pine Barrens Protection Act of 1993. The Plan contains, among other things, guidance in regard to the review procedures and jurisdiction of the Commission, Standards and Guidelines for Land Use, and the procedures for the Pine Barrens Credit Program. In order to streamline the review of development projects in the Compatible Growth Area of the Central Pine Barrens, the Plan was incorporated into the town codes of the Towns of Brookhaven, Riverhead, and Southampton, which in turn implement the Plan's provisions.

Article 57 of the New York State Environmental Conservation Law requires that the Central Pine Barrens Commission review the effectiveness of the Plan every five years and, if appropriate, identify areas in which amendments are required and then develop and adopt such amendments. ECL Article 57, Section 57-0121, entitled Central Pine Barrens Comprehensive Land Use Plan; Interim Regulations, paragraph 13 states:

*“Not less than once every five years after the land use plan has become effective, the commission shall review and, if appropriate, make amendments to the land use plan and update the generic environmental impact statement. Within each such period, the commission shall hold a public hearing and shall receive comments on the effectiveness of implementation of the land use plan. Not less than thirty days before voting on an amendment to the land use plan, the commission shall publish notice thereof in a newspaper of general circulation in the Central Pine Barrens area.”*

In 2005, the Commission identified land use and development provisions in Chapters 4, 5 and 6 of the Plan, in which amendments were recommended. These amendments were subsequently drafted and provided to the Commission for its consideration. In the course of developing these amendments, the Commission expended significant time and effort in the examination and analysis of the current Plan and employed an exhaustive review and study of past practices of the Commission and implementation of the Plan by the Towns of Brookhaven, Riverhead and Southampton.

As a result of a comprehensive analysis from 2005 to 2010, the Commission drafted and prepared a set of Plan Amendments to Chapters 4: Review Procedures and Jurisdiction, Chapter 5: Standards and Guidelines for Land Use, and Chapter 6: Pine Barrens Credit Program. During the time period between 2010 and 2015, the Plan Amendments were

reviewed by Commission Members, Designated Representatives, and the Central Pine Barrens Advisory Committee during 28 worksessions which included an extensive assessment and refinement of the amendments.

On April 15, 2015, the Commission adopted a Positive Declaration, pursuant to the State Environmental Quality Review Act regulations, 6 NYCRR Part 617, for the approval and adoption of the Plan Amendments (the Proposed Action). On February 17, 2016, the Commission adopted a Final Scope of Work to prepare a Supplemental Draft Generic Environmental Impact Statement (SDGEIS). The Proposed Action is necessary to update the Plan, clarify existing Commission policies and procedures and jurisdictional authority and address and solidify long-standing practices that originate in the Act and the Plan.

## **B. PLAN AMENDMENTS**

The Plan Amendments are identified in summary tables contained in Figures 2-1 through 2-3. The amendments are, for the most part, ministerial in nature and result in no significant adverse environmental impacts. The amendments aim to clarify existing practices and procedures; they combine existing provisions for efficiency in subject matter, and they seek to continue to implement the goals and objectives of the Act to protect water resources and ecological communities in the Central Pine Barrens region while accommodating compact, efficient, and orderly development. No amendments are proposed that adversely impact the resources of the Central Pine Barrens.

The Plan Amendments that are not ministerial in nature aim to be more protective of the resources of the Central Pine Barrens including water and ecological resources and the essential character of the region. They also support the CGA serving as an ecological buffer to the Core where the essential character of the region and its resources are maintained, in addition to serving as an area for compatible development.

This section includes a discussion on how the Plan Amendments advance the goals described in ECL Article 57, Section 57-0121, entitled “Central Pine Barrens comprehensive land use plan; interim regulations,” and how they enhance the Plan’s ability, for the entire Central Pine Barrens, to:

- “(a) protect, preserve and enhance the functional integrity of the Pine Barrens ecosystem and the significant natural resources, including plant and animal populations and communities, thereof;*
- (b) protect the quality of surface water and groundwater;*
- (c) discourage piecemeal and scattered development;*
- (d) promote active and passive recreational and environmental educational uses that are consistent with the land use plan; and*

- (e) 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.*

and in regard to the Compatible Growth Area:

- “(a) preserve and maintain the essential character of the existing Pine Barrens environment, including plant and animal species indigenous thereto and habitats therefor;*
- (b) protect the quality of surface and groundwaters;*
- (c) discourage piecemeal and scattered development;*
- (d) encourage appropriate patterns of compatible residential, commercial, agricultural, and industrial development in order to accommodate regional growth influences in an orderly way while protecting the Pine Barrens environment from the individual and cumulative adverse impacts thereof;*
- (e) accommodate a portion of development redirected from the preservation area. Such development may be redirected across municipal boundaries; and*
- (f) allow appropriate growth consistent with the natural resource goals pursuant to this title.”*

The following section describes the statutory authority in the Act for each of the Plan Amendments.

#### **CHAPTER 4: REVIEW PROCEDURES AND JURISDICTION**

The proposed Plan Amendments in Chapter 4, Review Procedures and Jurisdiction, specify coordination between agencies, clarify definitions based on past resolutions and policies of the Commission, update the ownership status of Critical Resource Areas, as applicable, refine and add definitions of projects that achieve the threshold as a Development of Regional Significance (DRS). In addition to the ECL Article 57 goals and objectives, additional statutory authority for these Chapter 4 amendments is found in Section 57-0121 of the Act which states:

- “6. The land use plan shall provide for, address and include but not be limited to the following:*

- (e) *Identification and mapping of critical resource areas within the Central Pine Barrens area which are of regional or statewide significance...*
- (h) *Development criteria and performance standards.*
- (k) *A program for state, county and local governmental implementation of the comprehensive land use plan and the various elements thereof in a manner that will insure the continued, uniform, and consistent protection of the Pine Barrens ecosystem and development objectives including:*
  - (i) *minimum standards for the adoption, as required in this title, of municipal and county plans, codes and ordinances concerning the development and use of land including, but not limited to, standards for minimum lot sizes, site clearance and wetland setbacks, appropriate population and densities and regulated or prohibited uses for specific portions of the Pine Barrens area and procedures for determining hardship consistent with the purposes and provisions of this title;*
  - (ii) *guidelines and standards for review of projects of regional significance which because of scale of intensity of use or location are likely to impede implementation of the land use plan; and*
  - (iii) *guidelines for consistency with the land use plan by state, county and local agencies.*
- (u) *Description of developments of regional significance.”*

## **CHAPTER 5: STANDARDS AND GUIDELINES FOR LAND USE**

The Plan Amendments in Chapter 5, Standards and Guidelines for Land Use, reorganize, consolidate and combine similar provisions that relate to County or State codes or regulations such as Suffolk County Department of Health Services codes pertaining to sanitary code compliance and industrial materials storage and New York State Department of Environmental Conservation regulations pertaining to wetlands, nondisturbance buffers and species protection. One significant Plan Amendment in Chapter 5 pertains to vegetation clearing, open space and habitat protection. Refinements were made to clearing requirements and methodologies for prioritizing the areas of a project site that should be set aside as open space. Additional provisions include a requirement to set aside open space on project sites that are already cleared of existing natural vegetation.

The Plan Amendments in Chapter 5 also allow for self-heal restoration and implementation of self-heal recovery on a project site. Open space design and implementation are described and illustrated in a guidance document included in the Plan Amendments entitled, “Draft Conservation Design and Open Space Management Manual for Development Projects in the Central Pine Barrens.” Revegetation requirements are also included. Other amendments relate to current region-wide initiatives and being consistent with existing practices in the

Towns and Villages in the Central Pine Barrens and in SEQRA including provisions for invasive species management, dark skies compliance, and scenic resource protection.

Additional statutory authority for the Chapter 5 amendments is found in Section 57-0121 of the Act which states:

*“6. The land use plan shall provide for, address and include but not be limited to the following:*

- (a) Statements of objectives, policies and standards as they pertain to the purposes of this title and the land use plan.*
- (h) Development criteria and performance standards.*
- (k) A program for state, county and local governmental implementation of the comprehensive land use plan and the various elements thereof in a manner that will insure the continued, uniform, and consistent protection of the Pine Barrens ecosystem and development objectives including:*
  - (i) minimum standards for the adoption, as required in this title, of municipal and county plans, codes and ordinances concerning the development and use of land including, but not limited to, standards for minimum lot sizes, site clearance and wetland setbacks, appropriate population and densities and regulated or prohibited uses for specific portions of the Pine Barrens area and procedures for determining hardship consistent with the purposes and provisions of this title;*
  - (iii) guidelines for consistency with the land use plan by state, county and local agencies.*
- (o) Provisions for restoration of natural and cultural resources where such resources have been damaged, lost, or otherwise impaired. Such work shall address restoration of Pine Barrens habitats, stream and shore revitalization, historic structures, traditional industries demonstration programs, and strengthening of community character which will be consistent with the provisions of the comprehensive management plan pursuant to section 57-0115 of this title.”*

## **CHAPTER 6: PINE BARRENS CREDIT PROGRAM**

The Plan Amendments in Chapter 6, Pine Barrens Credit Program, include references to provisions that apply to lands in the newly-expanded Core Preservation Area in the Carmans River watershed pursuant to the State Legislature’s 2013 amendment to New York State Environmental Conservation Law Article 57, including the method of allocating Pine Barrens Credits. Other Plan Amendments codify past practices of the Commission, refine Pine Barrens Credit redemption policies, the Letter of Interpretation process, Pine Barrens Credit transaction requirements, and the issuance of Pine Barrens Credits when a land use violation exists.

Additional statutory authority for these Chapter 6 amendments is found in Section 57-0121 of the Act which states:

6. *The land use plan shall provide for, address and include but not be limited to the following:*
- (a) *Statements of objectives, policies and standards as they pertain to the purposes of this title and the land use plan.*
  - (f) *Identification of sending districts in core preservation and compatible growth areas and receiving districts in compatible growth areas and outside the Central Pine Barrens area for the purpose of providing for the transfer of development rights and values to further the preservation and development goals of the land use plan and methodologies and standards for procedural equity and appropriate values in establishing rights and values consistent with the provisions of section two hundred sixty-one-a of the town law.*
  - (i) *An intergovernmental coordination and consistency component establishing the ways in which state and local programs and policies may best be coordinated to promote the goals and implement the policies of the land use plan.*
  - (m) *Land protection mechanisms, including, but not limited to, acquisition, conservation easements, rights and values transfers, purchase of development rights, donations and clustering, planned unit development, land trusts, exchanges between privately and publicly owned lands, or other zoning activities consistent with the provisions of this title.*

**FIGURE 2-1: CHAPTER 4 SUMMARY LIST OF AMENDMENTS**

<b>CHAPTER 4 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>
4.2 Intent	Encourages interagency data sharing and coordination for efficiency
4.3 Definitions	Adds reference to the Plan
4.3.2 Plan	Adds reference to the Act
4.3.5.1 Interpretation of “nondevelopment” provision 57-0107(13)(xiii)	New subsection Clarification of provision in the Act
4.3.9 Project Site	New section, defines term
4.3.10 Self-Heal Restoration, Self Restoration	New section, defines new term
4.3.11 Tall Structure	New section, defines new term
4.5.2 Development located within the Compatible Growth Area which does not conform to the standards contained in Volume 1, Chapter 5 of the Plan (“nonconforming development”)	Adds term “nonconforming development” to section heading



<b>CHAPTER 4 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>
4.5.2.1 Nonconforming development: Filing of an application	Adds term “nonconforming development” to title
4.5.2.3 Nonconforming development: Completeness determination deadline	Adds term “nonconforming development” to title
4.5.3 Development located within the Compatible Growth Area which has been subjected to a petition by the Commission pursuant to ECL Section 57-0123(2) (“assertion development”)	Adds term “assertion development” to title
4.5.3.2 Assertion development: Hearings and assertion of review jurisdiction	Adds term “assertion development” to title
4.5.3.3 Assertion development: Review standards	Adds term “assertion development to title, adds reference to the Act
4.5.4 Development located within the Compatible Growth Area which is also located within a Critical Resource Area (“CRA development”)	Adds term “CRA development” to title
4.5.4.1 CRA development: Definition of Critical Resource Areas	Adds term “CRA development” to title and adds reference to and excerpt from the Act Section 57-0121(6)(e)
4.5.4.1.1 Brookhaven Town Critical Resource Areas	New subsection identifying Brookhaven CRAs
Figure 4-1 depicts existing Critical Resource Areas in the Town of Brookhaven.	Amended Figure lists only Brookhaven CRAs and identifies ownership of CRAs
4.5.4.1.2 Southampton Town Critical Resource Areas	New subsection identifying Southampton CRAs
Figure 4-4: Critical Resource Areas in the Southampton Town CGA	New Figure, list identifies Southampton CRAs and describes features
4.5.4.2 CRA development: Review standards	Adds term “CRA Development” to title
4.5.4.3 CRA development: Application and hearing	Adds term “CRA Development” to title
4.5.4.4 CRA development: Decision on the application	Adds term “CRA Development” to title
4.5.4.5 CRA development: Default decisions	Adds term “CRA Development” to title
4.5.5 Developments of Regional Significance located within the Compatible Growth Area (“DRS development”)	Adds term “DRS Development” to title
4.5.5.1 DRS development: Definition of a Development of Regional Significance	Adds term “DRS Development” to heading, new preamble to introduce DRS thresholds

<b>CHAPTER 4 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>
4.5.5.1 #1 Non-residential floor area, exceeds 300,000 square feet of gross floor area	Existing threshold, no change except the inclusion of educational institutions and health care facilities
4.5.5.1 #2 Residential, 200 or more residential units	New provision that reduces the number of units requiring review as a DRS and includes multi-family development projects
4.5.5.1 #3 Mixed Use, development of 400,000 square feet or greater	New provision to define mixed use projects and related projects of this size
4.5.5.1 #4 Water Table Exposure	New provision to protect water resources
4.5.5.2 DRS development: Review standards	Adds DRS Development to title
4.5.5.3 DRS development: Application and hearing	Adds DRS Development to title
4.5.5.4 DRS development: Decision on the application	Adds DRS Development to title
4.5.5.5 DRS development: Default decisions	Adds DRS Development to title

**FIGURE 2-2: CHAPTER 5 SUMMARY LIST OF AMENDMENTS**

<p align="center"><b>CHAPTER 5 SECTION AMENDMENT</b> (S) Standard; (G) Guideline</p>	<p align="center"><b>SUMMARY OF AMENDMENT</b></p>
5.1 Central Pine Barrens overall area	Adds references to the Act, clarifies continuance of pre-existing uses, refers to Section 57-0123(3)(a) of the Act
5.3.1 Applicability and other policies	Adds reference to updated agricultural manual and requirements to obtain other required permits
5.3.2 State Environmental Quality Review Act	Adds term “development”
5.3.3 Intent and Compatible Growth Area standards	Changed term from law to requirement
S 5.3.3.1 Sanitary waste, nitrate-nitrogen and other chemicals of concern	Expanded title to include “sanitary waste” and “other chemicals of concern” and preamble to include reference to contaminants of anthropogenic origin
S 5.3.3.1.1 Suffolk County Sanitary Code Article 6 compliance	Adds title of sanitary code and refers to “development”
S 5.3.3.1.2 Sewage treatment plant discharge	Change of term from “denitrification” to “treatment” systems
S 5.3.3.1.3 Suffolk County Sanitary Code Articles 7 and 12 compliance	Existing provision, clarifies policy
S 5.3.3.1.4 Commercial and industrial compliance with the Suffolk County Sanitary Code	New subsection Existing provision, clarifies policy
G 5.3.3.1.5 Nitrate-nitrogen	New subsection Clarifies existing provision, removed “for projects in the vicinity of ponds and wetlands” Changed “may” to “shall”
5.3.3.3 Wellhead and groundwater protection	Adds reference to applicable State Code provision
S 5.3.3.3.1 Significant discharges and public supply well locations	Clarifies standard Removes term “nearby”
5.3.3.4 Wetlands, and surface waters and stormwater runoff	Combines standards, elaborates on application and regulations
S 5.3.3.4.1 Nondisturbance buffers	Elaborates on habitat protection, adds those sites not subject to other regulatory authority
S 5.3.3.4.2 Wild, Scenic and Recreational Rivers Act compliance	Combines existing standards

<p align="center"><b>CHAPTER 5 SECTION AMENDMENT</b> (S) Standard; (G) Guideline</p>	<p align="center"><b>SUMMARY OF AMENDMENT</b></p>
S 5.3.3.4.3 Stormwater recharge	Combines existing standards. Changes term “must” to “shall” and changes term “property” to “project site”
S 5.3.3.4.4 Reduction of Impervious Surfaces	Clarifies existing practice and refers to open space standard. Codifies existing practice consistent with amendment to open space standard. All sites required to conform to open space standard whether or not the site is vegetated.
S 5.3.3.4.5 Natural recharge, drainage, and ponds	New subsection Reiterates existing provision
5.3.3.6 Natural vegetation and plant habitat Coordinated design for open space, habitat and soil protection	Elaborates on preamble, planning and design to maximize preservation of open space, expounds upon background
S 5.3.3.6.1.1 Non-contiguous parcels	New subsection Existing practice
S 5.3.3.6.1.2 Split zoned sites	New subsection Existing practice
S 5.3.3.6.1.3 Residential Overlay Districts, PBCs and clearing limits	New subsection Existing practice based on resolution 9/26/01
S 5.3.3.6.1.4 Environmental restoration	New subsection Existing practice
S 5.3.3.6.1.5 Hardship requirement for relief of clearing limits	New subsection Existing requirement Clarifying see 4.5.2
S 5.3.3.6.1.6 Split Core/CGA parcels and clearing	New subsection Existing policy in Plan, separated
S 5.3.3.6.1.7 Cleared sites	New subsection Clarification, may conflict with open space standard
5.3.3.6.2 Open space standard requirement, unfragmented open space and habitat	Elaborates on unfragmented open space and related principles of conservation design
S 5.3.3.6.3 Fertilizer-dependent vegetation limit	Refers to native plants and restoration activity
S 5.3.3.6.4 Native plantings Figure 5-2: Planting recommendations	Expands plant list of acceptable and unacceptable plants
S 5.3.3.6.5 Receiving entity and protection for open space areas	New subsection Existing provision, elaborates on decision

<b>CHAPTER 5 SECTION AMENDMENT</b> (S) Standard; (G) Guideline	<b>SUMMARY OF AMENDMENT</b>
S 5.3.3.6.6 Buffer delineations, covenants and conservation easements	New subsection Existing provision
S 5.3.3.6.7 Invasive plant species mitigation	New subsection New standard applies to sites that preserve 10 acres or more of open space to identify extent of invasives in open space.
G 5.3.3.6.7.1 Invasive Species Mitigation	New subsection Permits removal of invasives on no more than two acres
Figure 5-1: Clearance and Open Space Standards	Amended figure quantifies open space percentage requirement as opposite of clearing percentage. Clearing percentage reduced from 65% to 60% for “all other zoning categories” such as schools and libraries. Permits state and public corporations to clear 60% where currently the uses may be in more restrictive residential zoning districts.
5.3.3.7 Protection and conservation of species and communities	Elaborates on preamble, adds reference to songbirds, forest interior, and other groups of birds
S 5.3.3.7.1 Special species and ecological communities	Word clarification
G 5.3.3.7.2 Bird conservation and protection	New. Suggests design elements to reduce bird collisions
5.3.3.9 Dark sky compliance	New. Preface to standard, explains effects of light pollution
S 5.3.3.9.1 Light pollution prevention	New. Applies only to project not subject to municipal review.
5.3.3.11 Scenic, historic and cultural resources	Elaborates preamble and refers to new Chapter 4 definition of Tall Structure. That applies to projects proposed by public corporations and that are not subject to municipal review.
G 5.3.3.11.1 Tall structures and scenic resources	New, has restricted application only to projects not subject to local municipal review
G 5.3.3.11.2 Cultural resource consideration	Adds reference to views identified and listed in Volumes 1 and 2
G 5.3.3.11.3 Inclusion of cultural resources in applications	Existing provision, renumbered

<b>CHAPTER 5 SECTION AMENDMENT</b> (S) Standard; (G) Guideline	<b>SUMMARY OF AMENDMENT</b>
G 5.3.3.11.4 Protection of scenic and recreational resources	Existing provision, renumbered
G 5.3.3.11.5 Roadside design and management	Existing provision, renumbered.
Figure 5-2: Scenic Roads and Areas in the Central Pine Barrens	New Figure 5-2 provides list of existing scenic roads and areas in the Central Pine Barrens

**FIGURE 2-3: CHAPTER 6 SUMMARY LIST OF AMENDMENTS**

<b>CHAPTER 6 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>
6.3 Allocation of Pine Barrens Credits	Memorialized Carmans River expansion, clarified date from which PBC allocation is computed and date affected by Carmans River Watershed expansion
6.3.1 Method of allocation	Clarified date from which PBC allocation is computed and incorporated Carmans River watershed expansion criteria
6.4.2.1 Brookhaven Pine Barrens Credit Program overview	Changed headings in section to add “As of Right” and “Non as of Right” redemptions
6.4.2.2 Brookhaven “As of Right” Residential Overlay District specifications	Added term “As of Right” in heading and changed “may” to “shall” in reference to allowing PBCs in RODs
6.4.2.2.4 Brookhaven criteria	Clarification of criteria
6.4.2.3 Innovative strategies for the redemption of Brookhaven Pine Barrens Credits	Word change from abbreviated “R” districts to “residential” districts
6.4.2.4.1 Transfers from Hydrogeologic Zone 3 to Hydrogeologic Zone 6	Clarified location of Hydrogeologic Zone 6
Figure 6-3: Brookhaven Residential Overlay District as of right receiving area map	Map title addition for clarification
Figure 6-4: Riverhead as of right receiving area map - Area “A” Calverton	Map title addition for clarification
Figure 6-4 (p.2): Riverhead as of right receiving area map - Area “B” West Main Street	Map title addition for clarification
New Figure with new Riverhead Receiving Areas (no figure #)	New Figure. Wading River and Riverhead Receiving Areas B and C are new
Figure 6-5 (p2) Riverhead Receiving Area Parcels	Amended list of RAs to reflect new receiving area parcels
Figure 6-7: Southampton as of right receiving area map	Updates map, no substantive change
Figure 6-7 (p.2): Southampton as of right receiving area map	Updates map, no substantive change
Figure 6-7 (p.3): Southampton as of right receiving area map	Updates map, no substantive change

<b>CHAPTER 6 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>
Figure 6-7 (p.4): Southampton as of right receiving area map	Updates map, no substantive change
Figure 6-7 (p.5): Southampton as of right receiving area map	Updates map, no substantive change
6.4.5 Suffolk County Sanitary Code	Word edit, no substantive change
6.5.4 Intermunicipal redemptions of Pine Barrens Credits	New section Clarification of policy
6.5.5 Permanency of Pine Barrens Credit Redemptions	New section Confirmation of policy that PBC redemptions are not temporary
6.5.6 Redemption of Pine Barrens Credits within the Core Preservation Area prohibited	Reiterates intent of the Act to redirect development from the Core and not retire PBCs in Core
6.7.3 Detail of Step 1: Obtaining a Letter of Interpretation	Clarification of time period to review Letter of Interpretation
6.7.3.4 Written appeal request timeframe	Clarification of review of appeal and hearing opportunity
6.7.3.5 Deciding the appeal	Clarification of policy after appeal is heard and issuance of final allocation
6.7.4.3 Acceptable title report	Clarification of conservation easement acceptance
6.7.6.6 Issuance of a full Pine Barrens Credit for certain roadfront parcels	Clarification of roadfront parcel allocation
6.7.6.8 Issuance of Pine Barrens Credits to a Parcel with a Land Use Violation	New section Provides clarity violations of the Act must be resolved, where applicable, before PBCs can be issued.
6.7.6.9 Transactions involving Pine Barrens Credits	New section. Clarifies numeric rounding figure in PBC transactions.

### **C. FRAMEWORK OF THE ANALYSIS**

This Supplemental Generic Environmental Impact Statement (SDGEIS) has been prepared in accordance with the State Environmental Quality Review Act (SEQRA) regulations. It contains a description of the proposed action, its setting, identifies potential significant adverse environmental impacts, mitigation, and an alternatives analysis. This assessment is limited to identifying and evaluating specific potential significant adverse environmental impacts of the Plan Amendments, if any, that are new since the 1995 SDGEIS and since the Plan was adopted in 1995.

The Amendments include new standards and newly discovered information based on



research that applies to existing provisions in the Plan to benefit Central Pine Barrens resources and that implement the goals and objectives originating in the Act. Proposed new substantive amendments and ministerial amendments are founded in the statute. Ministerial amendments include administrative updates to the Plan, clarification and consolidation of existing provisions and subject matters, provide corrections for consistency in terminology, discuss subjects that reflect regulatory requirements and provide protection of resources where gaps in regulatory oversight exist.

The amendments include changes not previously analyzed in 1995 when the Plan was adopted. Information from current sources and elaborated preambles provide additional background on the foundation for standards. With more than 25 years of Plan implementation, practice and policy since the inception of the Act and adoption of the Plan, the Commission seeks to update the Plan to memorialize terms used in decisions and determinations that reflect the current review and decision making processes. In conformance with SEQRA methodology for the preparation of an EIS, this chapter contains:

- A discussion of the Proposed Action — the Plan Amendments
- The proposed Plan Amendments in Chapters 4, 5 and 6 of the Plan
- Land use, zoning, and demographics in the 1995 Findings Statement and GEIS and current statistics, where available
- Existing conditions in the Core and CGA
- Zoning
- Review of other Land Use Plans in the Central Pine Barrens
- Community Facilities and Services in the Central Pine Barrens
- Residential Roadfront Exemption List
- Hardship Waivers

## **D. CENTRAL PINE BARRENS**

### **LONG ISLAND PINE BARRENS PROTECTION ACT**

In 1993, the New York State Legislature passed the “Long Island Pine Barrens Protection Act” (the “Act” under Article 57 of the NYS Environmental Conservation Law (ECL)), protecting the largest, “central” remaining wilderness area in the Long Island Pine Barrens region. Principal goals of the Long Island Pine Barrens Protection Act are:

- Protection of ground, surface, and drinking water resources for Suffolk County residents. New York State and Suffolk County recognized the need to protect the quality of Long Island’s groundwater resources because it is the sole source of our drinking water. The region defined by this law as the Central Pine Barrens, located at the junction of the Towns of Brookhaven, Riverhead, and Southampton, overlies a deep recharge aquifer area that contains relatively pristine water quality.

- Protection of a threatened ecosystem and landscape found in only a few locations in the United States and which contains one of the greatest concentrations of rare, endangered and threatened plants and animals in New York State.
- Defining the geographic boundaries of the Central Pine Barrens and providing for subdivision into the Core Preservation Area and Compatible Growth Area
- Creation of a five-member Commission representing New York State, Suffolk County, and the Towns of Brookhaven, Riverhead and Southampton.
- Creation of an Advisory Committee – establishment of a council of several dozen non-governmental organizations, listed by name in Article 57, which advises the Commission and contains a balanced representation of environmental, civic and builder groups
- Preparation, adoption and implementation of a Comprehensive Plan
- Promulgation of land use regulations
- Undertaking enforcement responsibility
- Establishing, implementing and administering a transfer of development rights program
- Developing and undertaking stewardship and protected land management responsibilities

## **FIVE-YEAR REVIEW**

Section 57-0121(13) of the Act directs the Commission to review and update the Central Pine Barrens Comprehensive Land Use Plan (the Plan) every five years and, if warranted, to adopt amendments. Section 57-0121 entitled Central Pine Barrens Comprehensive Land Use Plan; Interim Regulations, paragraph 13 states:

*“Not less than once every five years after the land use plan has become effective, the commission shall review and, if appropriate, make amendments to the land use plan and update the generic environmental impact statement. Within each such period, the commission shall hold a public hearing and shall receive comments on the effectiveness of implementation of the land use plan. Not less than thirty days before voting on an amendment to the land use plan, the commission shall publish notice thereof in a newspaper of general circulation in the Central Pine Barrens area.”*

## **CRITICAL ENVIRONMENTAL AREAS**

Designated by Suffolk County in 1988, the Central Suffolk Pine Barrens Critical Environmental Area (CEA) generally follows the boundary of the Central Pine Barrens. This CEA was established pursuant to New York State Environmental Conservation Law Article 8 (SEQRA) and its implementing regulations. Other CEAs designated by Suffolk County in the Central Pine Barrens include the Dwarf Pine Forest, the Peconic Bay and Environs, Sears Bellows Addition, Carmans River Addition, Southaven Park Addition, Peconic River Addition, Pine Barrens Adjacent to County Center, Maple Swamp Southampton, Aquifer Protection Overlay District (Town of Southampton), and the Coastal Zone Area South (Town of Brookhaven).

### **E. 1994 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS), 1995 SUPPLEMENTAL DGEIS, AND FINDINGS STATEMENT**

Major milestones in the GEIS for the Plan were:

- July 13, 1994 – The Draft GEIS was accepted.
- April 26, 1995 – The Commission adopted the Supplemental Draft Generic Environmental Impact Statement (SDGEIS).
- June 23, 1995 – The Commission adopted the Final GEIS and the Findings Statement for the Central Pine Barrens Comprehensive Land Use Plan.

The GEIS Findings Statement concluded that the Plan provides for review of actions with potentially adverse environmental impacts to ensure compliance with the Standards and Guidelines for Land Use. In such a review, the application of the Standards and Guidelines for Land Use will mitigate adverse impacts associated with development.

In the Core, prioritizing acquisition efforts would minimize impacts in the Core area, and development of certain roadfront infill lots in the Core would be mitigated through compliance with Standards and Guidelines for Land Use. It is noted that requiring the development of residential roadfront exemption lots to conform with standards and guidelines has not been implemented in practice. Non-development activities in the Core, as defined in the Act, were determined to be consistent with the Plan and result in no adverse environmental impacts.

Implementation of the Pine Barrens Credit Program avoided the development of more than 2,400 dwelling units in the Core that provided a substantial beneficial impact to the Core because the resulting adverse environmental impacts did not occur in the Core.

The review generally concluded that incremental increases in land use development in non-Core areas would occur and affect a range of environmental resources, however, implementation of the Plan through the application of Standards and Guidelines for Land

Use would mitigate potential environmental impacts on:

- groundwater quantity and quality
- ecological resources
- surface water resources
- geologic and soil resources
- cultural resources
- scenic and open spaces
- demographic patterns
- sewage treatment infrastructure
- traffic and noise impacts
- agricultural lands
- land use and zoning patterns
- schools and other public districts
- growth inducing impacts

The land use objectives in the 1994 GEIS continue to be sustained today. These include:

- Permitting existing land uses to remain in the Core.
- Redirecting development from the Core to CGA receiving areas and other non-Core areas through the Credit Program and elimination of development potential through acquisition, all resulting in preservation of land in the Core in perpetuity.
- Continued implementation of roadfront exemption policy allows development of certain vacant private lots fronting on an existing improved roadway in substantially developed areas in the Core (infill lots).
- Continued emphasis on achieving compact, efficient and orderly development reduced the need for infrastructure in the Core and its associated costs.
- Incurring beneficial secondary and long-term impacts related to the preservation and management of significant large tracts of open land areas within the Core that are acquired for the protection and perpetuation of the pine barrens ecosystem.

## **F. CENTRAL PINE BARRENS BOUNDARY**

The Study Area boundary for this analysis is the boundary of the Central Pine Barrens region. The Central Pine Barrens boundary is described in Section 57-0107(10) of the Act. The Core Preservation Area boundary is described in Section 57-0107(11) of the Act.

Since 1995, the boundary of the Central Pine Barrens has been expanded through

amendments to NYS ECL Article 57, thus expanding the Commission’s jurisdictional area. In 1998, the boundary was amended by the New York State Legislature to include Wertheim National Wildlife Refuge in Shirley, a 2,000 acre preserve in the Core Preservation Area in the Town of Brookhaven.

In 2013, the New York State Legislature amended Article 57 to add lands in the watershed of the Carmans River in the Town of Brookhaven. This area encompassing approximately 4,375 acres resulted in 368 acres of land formerly outside the Central Pine Barrens to be added to the Core, 2,479 acres of land formerly outside the Central Pine Barrens to be added to the CGA and 1,528 acres of land already in the CGA to be placed in the Core.

In 2018, the New York State Legislature again amended the Act to expand the Central Pine Barrens region in the hamlets of Shoreham and Mastic in the Town of Brookhaven, with the effective date of this expansion as January 1, 2019. The intent of this expansion was to preserve an estimated 800 acres of natural pine barrens habitat in Shoreham with subsequent acquisition of the majority of this land by New York State. In Mastic, the expansion area covers 300 acres of primarily public lands that are presently natural and undeveloped.

As a result, the boundaries of the Central Pine Barrens and the Core Preservation Area, as described in Article 57, were modified. Figure 2-4 contains a current graphic depiction of the general boundaries of the region. The written boundary description in the Act specifically identifies the changes to the Core and Central Pine Barrens area boundaries. As of 2020, the total area is an estimated 106,482 acres including 48,665 acres in the CGA and 57,817 acres in the Core.

The written boundary description in the Act is the main source for identifying a property’s location in the Central Pine Barrens and where the Commission has jurisdiction. Over the years, the Commission has discussed and decided boundary interpretations upon request from interested parties. A general boundary map is available; however, it is not an official map and one must refer to the boundary description(s) in the Act for a precise determination on a property’s location in the defined area.

## **G. CENTRAL PINE BARRENS COMPREHENSIVE LAND USE PLAN IMPLEMENTATION**

On June 28, 1995, the Commission adopted a Comprehensive Land Use Plan. The Plan was designed to protect groundwater and ecological resources of the Core and the CGA through a number of principal methods including, outlining development application review procedures, applying standards and guidelines for land use development in the CGA, and redirecting development from the Core by establishing a transfer of development rights program known as the Pine Barrens Credit Program. The Credit Program aims to protect land in the Core while compensating landowners with Pine Barrens Credit (PBCs) that are based on the development potential of their property. Sending and receiving areas for PBCs

were defined in the Plan. PBCs are intended to be used outside of sending areas to increase land use development density or intensity in specifically identified receiving areas on property in the CGA and on property outside the Central Pine Barrens, where permitted. In return for the issuance of PBCs, the owner grants a conservation easement to the Commission to preserve the Core property in perpetuity with no development or non-development activity permitted, except in limited cases of reserved rights, where applicable. As of 2020, approximately 1,036 credits have been issued and 2,145 acres were protected in conservation easements through the Credit Program. An estimated 879 parcels or 1,465 acres of private land remains in the Core.

As it states in Section 4.2 of the Plan, the review procedures were intended to be streamlined for those development proposals in the CGA that conform with standards and to provide for timely review and consideration concurrent with SEQRA and other Federal, State, and local regulations. Therefore, the Towns typically perform the review of development project applications in the CGA for conformance with the Plan, as implemented by the town codes. If a proposal does not conform, it requires a hardship waiver that can only be granted by the Commission.

The Plan contains other sections not covered in this Plan Amendments process including Public Lands Management, Water Resources and Hydrology, and other policies including the Calverton redevelopment policy.

## **COMPATIBLE GROWTH AREA**

Development projects in the CGA that conform with the Plan are typically reviewed by the local municipality or other involved agencies that receive development applications. Chapter 4, Section 4.2, Intent, states:

“It is the intent of the Central Pine Barrens Joint Planning and Policy Commission to provide for effective environmental review of proposed development in the Central Pine Barrens, and to avoid duplicate reporting and review requirements and unnecessary delays. Municipalities are encouraged to develop streamlined review procedures for development proposals that conform to the land use and development standards contained herein. It is the further intent of the Commission to provide timely reviews and input which are concurrent with the New York State Environmental Quality Review Act, the National Environmental Policy Act and other regulatory requirements and applicable federal, state, county, or local laws.”

These procedures are intended to coordinate Commission involvement and provide regulatory review of development located in the Central Pine Barrens area as defined and delineated in New York State Environmental Conservation Law Article 57.

When the Town receives a CGA development project application and conformance is unclear, it may elect to refer the application to the Commission for comments. Materials

may be referred in the SEQRA Coordination process. Commission staff review the application materials and prepare responses for Commission review. Responses may indicate if it appears a project does not conform with the Plan and advise that if the proposal is not revised to conform, a hardship waiver application must be submitted, subject to Commission review and discretionary decision. The Commission reviews requests for determination of jurisdiction. Discretionary determinations are rendered in accordance with the Act and Plan. Applicants may also submit applications for hardships directly to the Commission. Hardship decisions and a summary of determinations since the Act are provided on the Commission's website.

## **CORE PRESERVATION AREA**

Development activity in the Core, pursuant to the definitions the Act, is prohibited except for parcels identified on the residential roadfront exemption list and through hardship waivers. Construction of a single-family residence and customary accessory uses on a parcel in the list is defined as "non-development" activity in Section 57-0107(13)(x) of the Act. Chapter 9 of the Plan contains the list of 129 parcels. The list was adopted in the Plan in 1995 and amended by the NYS Legislature in 2001.

The hardship waiver process allows an applicant seeking to development their Core property to submit an application directly to the Commission. Only the Commission may issue hardship waivers. Chapter 4 of the Plan, Section 4.5.1.1, states the Commission shall seek Lead Agency status pursuant to SEQRA for development proposed in the Core. Type I Actions are coordinated with other Involved and Interested agencies, as applicable. Unlisted Actions are typically uncoordinated, and the Commission issues a SEQRA Determination concurrent with its decision. If a hardship waiver is granted, the applicant may proceed to obtain any and all other applicable permits and approvals. If the waiver is denied, the project is not permitted to be developed as per the decision.

Owners of Core property may voluntarily seek to obtain Pine Barrens Credit(s) for their property. The Pine Barrens Credit Program, outlined in Chapter 6 of the Plan, is designed for applicants to obtain Pine Barrens Credits (PBCs) in lieu of developing their property. In exchange, the owner places a conservation easement on their property to ensure its future protection from development. The process, outlined in and implemented by the Plan, requires a property owner to request a Letter of Interpretation to determine the number of PBCs the property would be eligible to receive. If it is eligible to receive PBCs, the owner may obtain PBCs in exchange for the development potential of the property and is required to record a conservation easement that is granted to the Commission to protect the property's resources as outlined in the easement terms. Some easements contain reserved rights that allow uses, structures and activities to continue to exist as they did at the time of the easement (e.g., agricultural uses, scout camp structures). Core landowners may also be compensated by public agency acquisition of their land including but not limited to New York State, Suffolk County, and where it exists, Town Community Preservation Fund(s).

## **H. PURPOSE, NEED, AND BENEFITS**

During the last review of the Plan in 2005, sections that needed to be revised were identified in order to enhance, to increase the effectiveness of the Plan, to further facilitate its implementation and to continue to meet the goals and objectives of the Plan and the Act.

Accordingly, amendments were identified through this process in the land use portions of the Plan in Chapters 4, 5 and 6 that would strengthen and clarify the provisions contained therein. Ultimately, the amendments benefit the region's natural resources while protecting property rights and continuing to encourage compact, efficient, and orderly development.

The amendments were initially developed and extensively reviewed by personnel in the Towns of Brookhaven, Riverhead and Southampton; the County of Suffolk; the New York State Department of Environmental Conservation and the Commission and members of the Central Pine Barrens Advisory Committee. In 2016 the Final Scope for the DGEIS was adopted for the proposed action involving the adoption of the amendments to the Central Pine Barrens Comprehensive Land Use Plan described herein.

## **I. REQUIRED APPROVALS AND REGULATORY FRAMEWORK**

The Central Pine Barrens Commission will prepare copies of the amended Comprehensive Land Use Plan and distribute copies to all involved and interested agencies. The Commission's website will be updated with the current version of the amended document for the public.

### **MUNICIPAL CODE AMENDMENTS**

As required in the Act, Town and Village Codes will be updated to incorporate the amendments after adoption by the Commission. The Town and Village Codes that may require amendments include, but are not limited to:

- *Town of Brookhaven Chapter 85 Article XXV*
- *Town of Riverhead Chapter 108 Article XXV*
- *Town of Southampton Chapter 330 Article XXIV*
- *Village of Quogue Zoning Code*
- *Village of Westhampton Beach Zoning Code*

### **STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) AND INVOLVED AGENCIES**

On March 19, 2015, the Commission coordinated the Plan Amendments with Involved Agencies including the Towns of Brookhaven, Riverhead and Southampton and the Villages of Quogue and Westhampton Beach, both for the purpose of seeking designation as Lead Agency and for the purpose of conducting an initial review of the proposed action.



On April 15, 2015, the Commission adopted a Positive Declaration for the preparation of a Supplemental Draft Generic Environmental Impact Statement. On February 17, 2016, the Commission adopted a Final Scoping document.

The process is consistent with Chapter 5, Section 5.3.2 State Environmental Quality Review Act (SEQRA), which states:

“A generic environmental impact statement (GEIS) has been completed for the Plan, including the standards and guidelines for land use set forth in this section. A supplemental environmental impact statement may be required for individual projects by the appropriate town or other governmental agency, if a significant environmental effect is identified that is outside the scope of the standards and guidelines set forth in this chapter. If a potentially significant environmental effect is not identified, a Supplemental Environmental Impact Statement or an Environmental Impact Statement should not be required. The scope of the supplemental EIS should be limited to subjects that are not addressed by the standards or guidelines or the GEIS.”

## **J. SUMMARY OF LAND USE PLANS IN THE CENTRAL PINE BARRENS**

Since 1995, municipal entities in the Central Pine Barrens region have referred land use plans for comment including hamlet plans, master plans and comprehensive plans. Responses were provided when it appeared plans affected the Central Pine Barrens and/or when the Commission had jurisdiction to review the plans. The Commission has been identified as an involved agency pursuant to SEQRA in the preparation of plans prepared by other entities if sites or study areas were located within or affected the Central Pine Barrens region.

### **TOWN OF BROOKHAVEN**

Town of Brookhaven plans that are relevant to the Central Pine Barrens include:

- Carmans River Conservation and Management Plan and Generic Environmental Impact Statement (2013)
- County Road 51 Corridor Land Use Plan (2007)
- Gordon Heights Land Use Plan (2011)
- Middle Country Road Land Use Plan for Coram, Middle Island and Ridge (2006)
- Route 25A Mount Sinai to Wading River Land Use Plan (2012)
- Town of Brookhaven Comprehensive Plan (1996, 2030 (Draft))

*Carmans River Conservation and Management Plan and Generic Environmental Impact Statement (2013)*

The Town of Brookhaven’s Carmans River Plan is discussed in greater detail than other plans because it involved an expansion of the Central Pine Barrens. The Town of Brookhaven assembled a team of participants to draft a management plan for the Carmans River watershed. Draft and Final Environmental Impact Statements were prepared and adopted. One of the outcomes of the plan was its recommendation to expand the Central Pine Barrens boundary in the watershed of the Carmans River. Ultimately, the New York State Legislature adopted an amended boundary description expanding the Core Preservation Area and Compatible Growth Area of the Central Pine Barrens in the watershed of the Carmans River. This plan affected the region most significantly since it increased the area of land in the Commission’s jurisdiction. Specifically, changes to the Core and CGA land areas included:

- New Core 368 acres
- New CGA 2,479 acres
- CGA to Core 1,528 acres
- Total 4,275 acres

Commission jurisdiction was expanded as a result of the Carmans plan including the provisions, policies and procedures of the Pine Barrens Credit Program. For instance, owners of property in the “new” Core area may be eligible to obtain Pine Barrens Credits in exchange for recording conservation easements on their property.

## **TOWN OF RIVERHEAD**

Town of Riverhead plans that are relevant to the Central Pine Barrens include:

- Naval Weapons Industrial Reserve Plant EIS, Calverton (1997)
- Town of Riverhead Comprehensive Plan (2003)
- Route 25A – Wading River Planning and Zoning Report (2012)
- Final Environmental Impact Statement (EIS) and Subdivision Map for the Planned Development District (PDD) at Enterprise Park at Calverton (EPCAL) (2016)

## **TOWN OF SOUTHAMPTON**

Town of Southampton plans that are relevant to the Central Pine Barrens include:

- Southampton Tomorrow Comprehensive Plan Update Implementation Strategies, Southampton, New York (1999)
- Eastport/Speonk/Remsenburg/Westhampton Area Study (2004)
- Flanders-Northampton-Riverside Revitalization Study (2004)
- Town of Southampton Community Preservation Fund Community Preservation Project Plan (2005)
- Town of Southampton Wireless Communications Plan (2007)

- Gabreski Airport Planned Development District Master Plan (2007)
- East Quogue Land Plan and Generic Environmental Impact Statement (2008)
- Riverside Urban Renewal Plan (2009)
- 400+ Sustainability Element Update to the Town of Southampton Comprehensive Plan (2012)
- Draft Feasibility Study Map and Plan for Flanders Riverside, Suffolk County, New York Flanders Riverside Corridor Sewering Feasibility Study (2013)
- Hampton Bays Corridor Strategic Plan, Cumulative Impact of Buildout Study and Generic Environmental Impact Statement (2013)
- Riverside Revitalization Action Plan and Generic Environmental Impact Statement (2015).

## **SUFFOLK COUNTY**

Suffolk County plans that are relevant to the Central Pine Barrens include:

- Suffolk County Airport Study (1990)
- Agricultural and Farmland Protection Plan (1996)
- Gabreski Airport Proposed Land Use Plan (2007)
- Suffolk County Transfer of Development Rights Study (2014)
- Suffolk County Comprehensive Water Resources Management Plan (2015)
- Comprehensive Master Plan 2035 (2015)

## **NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

New York State environmental regulations relevant to the Central Pine Barrens include:

- Article 9 Lands and Forests
- Article 11 Fish and Wildlife (Endangered Species)
- Article 15, Title 5 Protection of Water
- Article 15, Title 27 Wild, Scenic and Recreational Rivers
- Article 17 Water Pollution Control
- Article 23, Title 27 Mined Land Reclamation
- Article 24 Freshwater Wetlands
- Article 25 Tidal Wetlands
- Article 27 Collection, Treatment and Disposal of Refuse and Other Solid Waste
- Article 55 Sole Source Aquifer Protection

## **NEW YORK STATE DEPARTMENT OF STATE**

The New York State Coastal Zone Management Act and Program require coastal consistency concurrence for projects in the coastal area boundary. The Central Pine Barrens

and the State's mapped coastal area boundary overlap in the watersheds of two river systems: the Carmans River and the Peconic River. The Carmans River is in the Town of Brookhaven. The Peconic River runs through the Towns of Brookhaven, Riverhead and Southampton. A coastal consistency analysis may be required depending on a project's state and/or federal funding. None of the municipalities in the Central Pine Barrens have adopted local waterfront revitalization plans.

## **K. 1995 AND CURRENT LAND USE**

This section includes an update on statistics reflecting growth and changes in demographics since 1995 as reported in Volume 2 of the Plan. Information is provided, where available, on land use, population, demographics, zoning, and community facilities.

Physical data on land use information is provided. The data include historical information from the GEIS and Volume 2 of the Plan. Existing conditions data are provided, where available and relevant. The data include acreage of developed and undeveloped land, buildout of residential and non-residential land uses, and the amount of expected clearing in the Central Pine Barrens.

### **GEIS DATA**

#### *Central Pine Barrens*

Volume 2 of the Plan reported that the top two land use categories in the Central Pine Barrens were vacant property which accounted for 35,260 acres and recreational open space which covered 25,031 acres.

The estimated amount of privately owned vacant and undeveloped land in the Central Pine Barrens was 26,891 acres including:

- 15,932 acres in Brookhaven,
- 3,454 acres in Riverhead, and
- 7,505 acres in Southampton

The expected amount of clearing in the Central Pine Barrens totaled 11,594 acres including:

- 6,807 acres in Brookhaven,
- 2,153 acres in Riverhead, and
- 2,634 acres in Southampton

#### *Core Preservation Area*

An estimated 9,434 acres or 92% of the 10,254 acres of vacant privately owned parcels

located entirely within the Core are zoned residential. According to the SDGEIS (p125), approximately 2,149 acres of vacant land in the Core would not be developed as a result of the Plan.

An estimated 3,917 residential units could be developed in the Core, but due to the implementation of the Plan, they would not be built. The breakdown by Town was (SDGEIS p145):

- 2,583 residential units in Brookhaven
- 564 residential units in Riverhead
- 770 residential units in Southampton

The Plan calls for the transfer of only 2,688 units, a difference of 1,229 units which would not be built in the CGA or Receiving Areas.

Clearing as a result of buildout in the Core totaled 3,800 acres (SDGEIS pg 85):

- 1,803 acres in Brookhaven
- 1,403 acres in Southampton
- 594 acres in Riverhead

#### *Non-Core*

The amount of private vacant land in the CGA totaled 12,505 acres including:

- 10,094 acres in Brookhaven
- 617 acres in Riverhead
- 1,794 acres in Southampton

Clearing as a result of buildout in the CGA totaled 6,021 to 8,264 acres including:

- 4,950 to 5,067 acres in Brookhaven
- 392 to 2,029 acres in Riverhead
- 679 to 1,168 acres in Southampton

The Receiving Area acreage totaled 15,763 acres including:

- 10,629 acres in the Town of Brookhaven
- 1,574 acres in the Town of Riverhead
- 3,560 acres in the Town of Southampton

The number of Pine Barrens Credits available for transfer to Receiving Areas was 4,070 credits including:

- 2,250 for the Town of Brookhaven
- 220 for the Town of Riverhead
- 1,600 for the Town of Southampton

The maximum potential number of residential units that may be redirected to receiving areas with the use of Pine Barrens Credits was 2,420 units and was comprised of :

- 1,650 units in Brookhaven
- zero units in Riverhead
- 770 units in Southampton

The number of residential units per acre if used strictly for residential purposes and distributed evenly over the receiving area in each Town translates to:

- 0.21 additional residential units per acre in Brookhaven
- 0.16 additional residential units per acre in Riverhead
- 0.45 additional residential units per acre in Southampton

Potential buildout of commercial and industrial uses covers 4,705 acres including:

- 1,707 acres in Brookhaven
- 2,946 acres in Riverhead
- 52 acres in Southampton

In the CGA, the top five land uses included vacant property followed by residential, agricultural, recreation and open space, and institutional uses.

#### *Town of Brookhaven*

In Brookhaven, the Plan identified the transfer of 1,650 Pine Barrens Credits (PBCs) with 5,568 acres of receiving area capacity, which the SDGEIS (1995) defined as a moderate impact that could be accommodated with planned development between larger undeveloped parcels. This would allow the compact, efficient, and orderly development of land in the CGA. Density increases provided cost effective and efficient use of utilities, roads and services while adding the negative effect of increased maintenance, runoff, water and air pollution.

The distribution of 1,650 PBCs into the 5,568 acres of Receiving Areas of amounted to, as the SDGEIS described, the “worst case (without acquisition)” and an average density increase of 0.30 units per acre. The density was concluded to be a moderate impact accommodated with appropriate planned development.

### *Town of Riverhead*

In Riverhead, the SDGEIS described “moderate” impacts on land use and zoning from the transfer of 268 PBCs from the Core into the designated receiving areas were defined in the SDGEIS as moderate. The distribution of non-residential credits in the 1,574-acre receiving area amounted to a worst case (without acquisition) average density increase of 0.17 units per acre. This was a relatively moderate increase which could be accommodated in the designated areas by appropriate planned development.

### *Town of Southampton*

In Southampton, the transfer of 770 PBCs from the Core into the designated receiving areas was identified as a moderate impact. The dispersion of residential credits in the receiving area of 3,560 acres amounted to an average density increase of 0.22 units per acre. This was not a significant amount and could be accommodated in the designated areas with appropriate planned development, allowing coordination of access and circulation to lessen the impact of the increased development on roads and surrounding areas and to ensure the efficient use of developable land.

## **EXISTING CONDITIONS**

Current land use data in the Core Preservation Area and Compatible Growth Area is provided, where available and applicable. The Town of Southampton GIS Department manages an advanced system of land use information, and data are provided where available and relevant to the Plan.

### *Central Pine Barrens*

In the Central Pine Barrens in the Town of Southampton, privately owned vacant land remaining is approximately 3,670 acres including:

- 1,671 acres of CGA
- 1,433 acres of Core
- 565 acres of split CGA/Core

In 2017, the top five land use categories in the Central Pine Barrens in Southampton included:

- residential (17,925 acres)
- open space (5,787 acres)
- industrial (2,664 acres)
- university (177 acres)
- commercial (175 acres)

In 2013, the Town of Brookhaven Carmans River Conservation and Management Plan (Carmans River Plan) facilitated the New York State Legislature to pass legislation to expand the Central Pine Barrens region, both Core and CGA, in the Carmans River watershed. The expansion involved 4,375 acres including:

- 1,896 acres to be added to the Core, including 1,528 acres previously in the CGA
- 2,479 acres to be added to the CGA

The Carmans River Plan identified a new Core area in the Carmans River watershed that would generate an estimated 135 PBCs.

The Shoreham Core expansion has the potential to generate an estimated 90 PBCs. To date, no applications for Letters of Interpretation have been received by the Credit Clearinghouse for the Shoreham Core area.

### *Core Preservation Area*

As of 2020, the Pine Barrens Credit Program conservation easement protected lands totaled 2,145.26 acres including:

- 781.96 acres in Brookhaven
- 516.60 acres in Riverhead
- 846.70 acres in Southampton

### Public Land

As of 2018, the area of public land owned by agencies including New York State, Suffolk County, and the three Towns is approximately 42,335 acres in the Core Preservation Area out of the 48,964 acres. This is 86% of the Core area, which exceeds the 75% acquisition goal in the Core. This figure excludes highways, roads and the acreage of some waterbodies.

The amount of vacant, private, unprotected land remaining in the Core is approximately 6,629 acres. An additional 1,018 acres is split between the Core and CGA where tax lots span the Core/CGA boundary.

New York State owns approximately 16,574 acres in the Central Pine Barrens including 14,368 acres in the Core, 797 acres in the CGA and 1,409 acres in the Core/CGA.

Suffolk County owns approximately 5,656 acres in the Core, as of 2017 (Longo correspondence, 2017).

The Town of Southampton owns approximately 1,997 acres in the Central Pine Barrens



including 767 acres in the Core, 843 acres in the CGA and 1,980 acres in the Core/CGA.

The Town of Brookhaven owns approximately 4,804 acres in the Central Pine Barrens including 1,287 acres in the Core and 3,517 acres in the CGA

The Town of Riverhead owns approximately 2,405 acres in Central Pine Barrens including 58 acres in the Core, 367 acres in the CGA and 1,980 acres in the Core/CGA.

### *Compatible Growth Area*

#### Residential Overlay Districts

On September 26, 2001 the Commission adopted a resolution to determine the maximum site clearance allowed for a site using Pine Barrens Credits in a ROD located in the Compatible Growth Area. It stated that Figure 5-1 of the Plan, "Clearance Standards," shall be interpolated as per the actual lot size that results when Pine Barrens Credits are applied to the site as long as Town Code requirements are met and the requirements of Section 6.4.2.2.2 of the Plan are met, where applicable. On September 20, 2017, the resolution was amended to refer to the broader Section 6.4 Designated Receiving Districts for Pine Barrens Credits.

An example of this policy is in the Southampton RODs. The Plan permits lots to be reduced to 20,000 square feet when PBCs are utilized. If all RODs including 78 parcels totaling 578 acres were reduced to 20,000 square foot lots, the 60% clearing allowance, as per Figure 5 Clearance Standards, would result in a total of approximately 347 acres of clearing.

According to Chapter 6, when PBCs are utilized, lots in Town of Brookhaven Receiving Areas (RA) may be reduced to 30,000 square feet and 60,000 square feet in the A1 and A2 Residence Zoning Districts, respectively. Receiving Areas in Brookhaven, 4,456 sites, can absorb the 1,650 Credits transferred from the Core (SDGEIS). The Generic EIS analysis did not identify the additional clearing that would occur as a result of the transfer of PBCs to Receiving Areas as a significant adverse environmental impact. In fact, the Act and the Plan designed the Core and CGA to coordinate in a manner that facilitates the goals of the region including accommodating growth and preserving the integrity of CGA resources while achieving preservation goals in and transferring development from the Core.

The CGA was designed to encourage appropriate patterns of compatible residential, commercial, agricultural and industrial development in order to accommodate regional growth influences in an orderly way and accommodate a portion of development redirected from the Core. At the same time, the CGA was intended to preserve and maintain the essential character of the pine barrens environment, protect the quality of surface and groundwaters and discourage piecemeal and scattered development.

In accordance with these principles, implementation of standards and guidelines for land

use development in the CGA has resulted in the preservation of open space through cluster plans and maintained the character of the CGA while accommodating development projects in the pine barrens landscape. Development continues in conformance with the Plan on privately-held land in the CGA.

Agricultural land use area in the Central Pine Barrens has declined due to a reduction in the amount of area devoted to agricultural uses from the conversion of farmland to housing and other development. In the Town of Brookhaven, for example, some agricultural land that existed in 1995 has since been developed with other uses including residential subdivisions and solar facilities. Similarly, in the Town of Riverhead hamlet of Wading River, in the CGA, some farmland in cultivation prior to the Act has since been developed with residential subdivisions and commercial land uses.

In Southampton, where a large concentration of farmland exists in the hamlet of East Quogue, in the CGA, the Town has led preservation efforts to protect a significant amount of agricultural land in active production either through transfer of development rights programs or through community preservation fund (CPF) acquisitions. Reduced yield residential cluster subdivisions have preserved farmland as well.

A number of noteworthy, large-scale land use development projects exist in the Central Pine Barrens, one in each of the three Towns—Brookhaven, Riverhead, and Southampton. The projects have either commenced or completed environmental review. The project site areas represent approximately 3,720 acres or 3.5% of the land area in the Central Pine Barrens. The projects and project site acreages include:

- The Meadows at Yaphank Planned Development, Yaphank, Town of Brookhaven (320 acres)
- Enterprise Park at Calverton (EPCAL), Calverton, Town of Riverhead (2,324 acres)
- Lewis Road Planned Residential Development (PRD) Subdivision, East Quogue, Town of Southampton (608 acres)
- Riverside Revitalization Plan, Riverside, Town of Southampton (468 acres)

#### *Critical Resource Areas (CRAs)*

The Plan designated 32 properties as Critical Resource Areas (CRAs) and recommended preservation of the CRAs because of their unique and significant environmental features, habitats or species. CRA resources include but are not limited to steep slopes, historic and cultural resources, the globally rare dwarf pine plains, and state-listed protected species. Development in a CRA requires submission of an application for review of conformance with Standards and Guidelines in the Plan to reduce potential impact to CRAs.

The Plan Amendments update the status of CRAs to identify ownership information if available (e.g., acquisitions by public agencies including Towns, Suffolk County, and/or New York State, and those that remain private and developable or unprotected). No new

CRA's are designated in the Plan Amendments.

Since 1995, the Commission has decided four applications involving Critical Resource Areas in the Compatible Growth Area, all of which are in the Town of Southampton including:

- Ocean Hills at Red Creek Subdivision (approved, acquired)
- Red Creek Vistas Subdivision (approved, acquired)
- Rosko Farms Subdivision (approved, developed)
- Westhampton Property Associates sand mine (approved, developed)

A fifth project in Southampton Town, Lewis Road Planned Residential Development Subdivision, contained approximately 62 acres in a CRA. The CRA was defined for its buckmoth habitat. The project was reviewed by the Commission as an Assertion of Jurisdiction, not as a CRA application. The Commission determined on January 20, 2021 that the project was in conformance with the Plan Standards and Guidelines. As a cluster subdivision, the CRA acreage was protected as part of the project's open space.

#### *Developments of Regional Significance*

Since 1995, the Commission decided five Developments of Regional Significance (DRS) projects in the Compatible Growth Area including:

- Suffolk County Center, Town of Southampton (approved, developed)
- Brookhaven Walk (not developed) and The Meadows at Yaphank PDD, Yaphank, Town of Brookhaven (approved, phased development under construction)
- Tall Grass PDD, Shoreham, Town of Brookhaven (denied, not developed)
- Artist Lake Plaza, Middle Island, Town of Brookhaven (approved, not developed)
- Silver Corporate Park industrial subdivision, Town of Brookhaven (approved)

#### **L. 1995 AND CURRENT DEMOGRAPHICS – POPULATION AND HOUSING**

This section provides demographics data provided in Volume 2 of the Plan and current data, where available and applicable, are also provided.

##### **GEIS SUMMARY**

Volume 2 of the Plan reported the 1990 population of the Central Pine Barrens area, based on the 1990 census data, was estimated to be 57,207.

The CGA population was estimated to be 53,295. The population density of 717 persons per square mile represented 93% of the total population of the Central Pine Barrens, which was broken down as follows:

- 47,392 in Brookhaven
- 957 in Riverhead
- 4,946 in Southampton

The Core population was estimated to be 3,912 with a population density of 48 persons per square mile that represented only 7% of the total population of the Central Pine Barrens, significantly less population than in the CGA, which was broken down as follows:

- 2,327 in Brookhaven
- 346 in Riverhead
- 1,239 in Southampton

#### *Core Preservation Area*

The DGEIS anticipated that the adoption of the Plan would not significantly affect existing demographic characteristics of the Core. Existing uses would be permitted to remain, and a very small number of additional residential units would be added to this area. (pg 319)

The actual number of residential units that would be allowed to be built is very limited due to development criteria imposed under the Plan. The number of additional housing units, 3,659, and persons, 9,879, would be significantly less than that estimated for units under the full build-out scenario for the Core area.

Based on LILCO 1994 population estimates, there were an estimated 2.9 persons per household in the three Pine Barrens towns. At 2.9 persons per household, the effect of the Plan on the Core was to reduce the future population expected in the Core by 7,491 persons in Brookhaven, 1,636 persons in Riverhead, and 2,233 persons in Southampton, for a decrease in saturation population in the Core of 11,360 persons.

Implementation of the Plan was anticipated to “displace” potential future population growth within the Core area to areas outside of the Core through the Pine Barrens Credit Program. (1994 GEIS pg 319)

#### *Non-Core*

Adoption of the Plan would not significantly affect existing demographic characteristics or trends within the CGA. Existing uses would be permitted to remain and future uses are established by existing zoning. Population would continue to increase as land within the CGA was developed with additional residential units. In portions of the CGA outside the receiving areas, the Plan would not increase the number of housing units and therefore would not increase the population within the non-receiving area portion of the CGA over and above the increase which is expected from development under existing conditions.

It was anticipated that PBCs from the Core in each Town would be transferred to receiving areas within each town and generally not to receiving areas in other towns. Receiving areas are located within or outside the CGA. Riverhead's Receiving Areas are in non-residential zoning districts. In Brookhaven and Southampton, it is expected PBCs would be used predominantly for residential housing units.

When acquisition of land available for residential development occurs, potential future population increases are reduced since the PBCs generated by those lands would not be used for development. In this way, the pace of population increases may slow and future saturation population would be lower as a result of the Plan's recommendations on land acquisition.

Upon Plan implementation, future population growth was anticipated to be redirected from the Core and transferred to receiving areas outside the Core through the use of PBCs. The Plan would therefore redirect population density from the Core to areas outside the Core. Population increases can be mitigated through acquisitions in the Core and by the use of PBCs for nonresidential purposes. However, the Plan would result in a net reduction in total populations of both areas taken together.

Population differences would occur in each Pine Barrens town because of each Town's different plan for the use of PBCs. In the Town of Riverhead, since no PBCs transferred from the Core would become residential units, the effect of the Plan is to reduce to zero the number of potential additional housing units that would be built in receiving areas outside the Core. In Southampton, the number of PBCs transferred out of the Core would equal the total number of units that would potentially be developed in receiving areas outside the Core. In Brookhaven, the number of potential units to be built in the Core translates into fewer total units shifted to areas outside the Core. Therefore, because of the Plan, the overall eventual total number of housing units generated within the towns would be lower than that under existing zoning.

The number of additional housing units which may be redirected to receiving areas due to PBCs is 1,650 in the Town of Brookhaven, zero (0) in the Town of Riverhead, and 770 in the Town of Southampton, for a total of 2,420 residential units. If all PBCs are redeemed, then the maximum number of units to be redirected outside the Core because of the Plan would be 2,420. When Core and receiving areas are considered together, the Plan would result in a net reduction in housing units of approximately 1,497 units, assuming all PBCs in Brookhaven and Southampton are utilized for residential development in receiving areas.

The long-range goal of the Plan is for 75% acquisition of privately held, undeveloped and unprotected land in the Core to be protected. Under this strategy, 25% of the PBCs would be left for development or actually be used for residential units in Brookhaven and Southampton. The resulting net demographic effect of such a policy would be redirecting 605 housing units outside the Core in Brookhaven and Southampton.

It was expected a population shift would occur in each town to areas outside the Core because of the Credit Program. The potential additional population redirected outside the Core in Riverhead due to the Plan is zero (0). In Brookhaven, the maximum potential redirected population is estimated to be 4,785, and in Southampton, 2,233, for a total of 7,018 additional persons in receiving areas. If 75% are removed from use through acquisition, only 1,758 additional persons can be expected to be redirected to areas outside the Core in Brookhaven and Southampton because of the Plan.

Due to the PBC program the percentage population change that would occur in each town, outside those portions in the Core is a reduction of 4,341 persons, assuming all PBCs in Brookhaven and Southampton are utilized for residential development in receiving areas. The reduction in net population would be greater if acquisition of privately owned vacant land in the Core occurs or if PBCs are redeemed for non-residential uses.

The presence of the Core has mitigating effects on growth in the region including but not limited to population, housing, and other potential adverse impacts of land use development. With acquisition of 75% of private undeveloped land in the Core, the corresponding number of PBCs to be transferred from the Core is reduced. This reduces the number of people who can be anticipated in the area. Also, because the Core is protected by the transfer of PBCs to noncore areas, compact, efficient and orderly development continues to occur in the Central Pine Barrens.

**EXISTING CONDITIONS – DEMOGRAPHICS**

The 2010 census provided population and housing data in the Core and CGA by Town in the Central Pine Barrens. Data from 1990 and 2010 are provided for comparison.

**Figure 2-5: Population Density in the Core Preservation Area and the Compatible Growth Area by Town, 1990 and 2010, Population per Square Mile**

Persons Per Square Mile	Brookhaven		Riverhead		Southampton	
	1990	2010	1990	2010	1990	2010
Core	57	64	47	62	37	47
CGA	686	1,227	112	179	402	590

Note: Plan Volume 2 1990 data Figure 9-4

The percent change in population density in the Core in Brookhaven, Riverhead and Southampton is 12%, 13%, and 27%, respectively. In the CGA, the percent change for Brookhaven, Riverhead and Southampton is 78%, 60% and 47%, respectively

**Figure 2-6: Housing Units in the Core Preservation Area, the Compatible Growth Area, and the Central Pine Barrens by Town, 1990 and 2010**

Housing Units	Brookhaven		Riverhead		Southampton		Total	
	1990	2010	1990	2010	1990	2010	1990	2010
Core	902	909	197	207	616	636	1,175	1,751
CGA	18,760	26,622	386	618	2,320	3,010	21,465	30,251
Central Pine Barrens	19,661	27,531	583	825	2,936	3,646	23,180	32,002

Note: Plan Volume 2 1990 data Figure 9-6

The percent change in the number of housing units in the Core Preservation Area in Brookhaven, Riverhead, and Southampton is 0.78%, 5% and 3%, respectively.

The percent change in the number of housing units in the CGA in Brookhaven, Riverhead, and Southampton is 42%, 60% and 29%, respectively.

**Figure 2-7: Population in the Core Preservation Area, Compatible Growth Area and the Central Pine Barrens by Town, 1990 and 2010**

Population <small>(pgs. 125, 327, Vol 2 Fig 9-3)</small>	Brookhaven		Riverhead		Southampton		Total	
	1990	2010	1990	2010	1990	2010	1990	2010
Core	2,327	2,608	346	459	1,239	1,566	3,912	4,633
CGA	47,392	65,631	957	1,544	4,946	7,266	53,295	74,441
Central Pine Barrens	49,719	68,239	1,303	2,003	6,185	8,832	57,207	79,074
Carmans area population data <small>(as per 2013 Carmans Plan)</small>	-	32,650	-	-	-	-	-	32,650

Note: Plan Volume 2 1990 data Figure 9-3 and Suffolk County 2010 population and housing data

## M. 1995 AND CURRENT ZONING

Zoning is not regulated by the Commission; however, it is a factor as it relates to the implementation of the Plan. For example, the clearing standard is applied based on a project site's 1995 zoning category as opposed to a site's land use. Since 1995, rezoning actions have occurred on properties in the Central Pine Barrens. Rezoning actions occur at the municipal level and involve projects such Planned Development Districts, applications to legalize pre-existing non-conforming uses, hamlet-wide and comprehensive/master plan rezoning actions.

A change of zone requires a Town Board action. Section 57-0107(13)(a) of the Act defines a change of zone as "development." If the activity occurs in the CGA, the project must demonstrate it conforms to the Plan, specifically the standards outlined in Chapter 5. A rezoning action shall not impact the Plan or be less restrictive than what was permitted prior to the rezoning. Adverse impacts may occur on the resources of the CGA and to the

Plan if a project site is rezoned and the clearance percentage is increased for instance from 53% to 65%. A project site cannot be rezoned to avoid the hardship waiver requirement. The reason is that it would result in excess clearing that was not contemplated in the GEIS analysis of the total amount of clearing expected to occur at buildout in the CGA. If a project exceeds the clearing standard, and it is not revised to conform, then the applicant must apply to the Commission for a Compatible Growth Area Hardship Waiver, subject to Commission review and discretionary decision in accordance with the Act.

## **GEIS SUMMARY**

The GEIS resulted in modified zoning districts in the Core Preservation Area. Generally, the Core area zoning districts were modified by the Towns to be more restrictive and less densely developed.

## **EXISTING CONDITIONS**

Since 1995, the Towns have amended zoning districts, created new zoning districts, and rezoned sites to reflect current, permitted, and pre-existing, non-conforming land uses. Section 5.1 of the Plan states, “*The municipalities may adopt standards and guidelines which are more restrictive than those contained in this Plan.*” Town-wide master plans or zone changes on parcels in the Central Pine Barrens are not permitted to be less restrictive than the GEIS analysis anticipated. For example, typically, no net increase in clearing is permitted in the CGA beyond the extent contemplated in the SDGEIS. Generally, a site’s zoning district may not be changed to allow more clearing than the Plan permits, unless and until an analysis is completed that demonstrates no adverse impacts on the resources of the CGA will occur. An applicant, agency or other entity is not permitted to change the zoning district of a project site to a zoning district that permits more clearing than the clearing restriction allowed by the Plan, based on the 1995 zoning, in order to accommodate a development project. Exceptions to this rule may include, but not be limited to, cases where PBC redemptions occur in Receiving Areas.

The GEIS analysis estimated an amount of clearing and development over the entire Central Pine Barrens Area. Actions that adversely impact the Central Pine Barrens are not permitted absent a hardship waiver or unless it is demonstrated that the plan or project mitigates impacts.

## **N. COMMUNITY FACILITIES AND SERVICES**

Community facilities developed in the Central Pine Barrens include educational institutions, fire districts, and sewage treatment plants.

### **EDUCATIONAL AND SOCIAL SERVICES INSTITUTIONS**

Since the GEIS was adopted, new school and institutional facilities have subsequently been



developed in the Central Pine Barrens and include:

- Riverhead School District bus storage facility (Calverton)
- Sachem School District (Farmingville)
- Eastport South Manor School District (Eastport)
- Longwood Public Library expansion (Middle Island)

#### **POLICE AND FIRE PROTECTION SERVICES**

New or redeveloped fire department facilities in the Central Pine Barrens include:

- Manorville Community Ambulance on South Street
- Manorville Fire Department on CR 111
- Middle Island Fire District
- Ridge Fire Department

#### **HEALTH CARE AND MEDICAL FACILITIES**

Private health care facilities in the Compatible Growth Area include doctor's offices and other emergency and medical outpatient services facilities. This type of land use is typically placed in a walk-in medical office in a commercial site except for larger hospital facilities.

#### **RECREATIONAL FACILITIES**

Access to existing public lands, resources, recreational uses and facilities are provided in the Central Pine Barrens including parking lots for hiking trail users, non-motorized boat launches, horseback riding and related uses and facilities. Active recreational access to the Peconic River and Carmans River is encouraged and provided by boat launches and parking lots in the vicinity of river corridors.

#### **PUBLIC WATER SUPPLY**

Three water districts are situated in the Central Pine Barrens including:

- Hampton Bays Water District
- Riverhead Water District
- Suffolk County Water Authority

The population served by the Hampton Bays Water District during 2016 was 15,500. The population served by the Riverhead Water District during 2016 was approximately 33,769. The population served by SCWA in 2016 was 1.2 million.

Since the GEIS was adopted, eight Suffolk County Water Authority (SCWA) wellfields

and two ground storage reservoirs, as noted below, have been constructed in the Central Pine Barrens including:

- Bay Drive (2003)
- County Road 31 (1999)
- County Route 111 (1995)
- Gus Guerrera (2004)
- Malloy Drive (2000)
- Oak Avenue (2004)
- Main Street Yaphank (2016)
- Suffolk Hills Park (2001) (ground storage reservoir)
- County Route 111
- Speonk Riverhead Road (ground storage reservoir)

### **SOLID WASTE DISPOSAL**

No new solid waste disposal facilities have been developed since the GEIS was adopted.

### **SEWAGE TREATMENT PLANTS**

There are an estimated 36 Sewage Treatment Plants (STPs) in the Compatible Growth Area and two (2) in the Core Preservation Area of the Central Pine Barrens. No STPs have been approved directly by the Commission. Except for the Lewis Road STP, which was in the Assertion application reviewed and approved by the Commission (2021), the STPs that exist in the Central Pine Barrens were part of development projects that were approved or constructed prior to the Act, or were reviewed by the Towns for conformance with the Plan and did not achieve a development review threshold as a DRS, CRA, Assertion of Jurisdiction or require a hardship waiver that would require direct review by the Commission.

### **TRANSPORTATION**

The Plan stated the Commission shall encourage the submittal of transportation-efficient designs for sites and larger areas. Since the GEIS was adopted, transportation projects have occurred including roadway modifications and safety measures in existing rights of way, lane widening, recharge basins, planted medians and beautification projects (e.g., State Route 112), roundabouts (e.g., Whiskey Road, CR 31 and CR 104) and new traffic light installations (e.g., three locations on Flanders Road including Bellows Pond Road, Oak Avenue, and Long Neck Boulevard).

Other projects included the reopening of the freight railroad spur from the main LIRR corridor north to EPCAL. No other major public transport or other transportation initiatives have occurred in the Central Pine Barrens since 1995.

The GEIS estimate of 2,583 residential units in the Core was expected to potentially impact transportation infrastructure in the Core. Since the Plan prohibits or redirects development from the Core, but for limited exemptions, there should be no increase in demand on existing infrastructure in the Core.

## **ENERGY AND UTILITIES**

Since the GEIS was adopted, new, expanded and replacement energy transmission and utility projects, facilities and structures have been constructed including, but not limited to:

- 22-mile LIPA underground electric transmission line from Riverhead to Southampton (2000) and second cable installed in the second conduit in 2020
- LIPA Riverhead Substation Expansion (2008)
- PSEGLI Middle Island Substation (2015)
- PSEGLI utility pole upgrades/replacements on CR 51 (2016-2017)
- National Grid gas pipelines on River Road, State Routes 94 and 24, County Routes 104 and 31.

Solar facilities developed at sites in the Central Pine Barrens include, but are not limited to Brookhaven National Laboratory, the sod farm and golf course formerly known as “Tall Grass” and the solar carport installed on the parking lot at the Suffolk County Center in Riverhead. Additional solar installations are currently underway on farmland and the former Calverton Links Golf Course in the hamlet of Calverton, Town of Riverhead.

Utility pole and traffic light replacements have occurred on road corridors in the Central Pine Barrens including, but not limited to, County Route 51, New York State Route 24, and New York State Route 112. Utility projects often involve “in-place” replacement of structures such as wood to steel poles to strengthen infrastructure for storm resistance. Ongoing maintenance and upgrades continue in LIPA overhead transmission line rights of way.

## **COMMUNICATION FACILITIES**

Private communications companies typically co-locate antennas and equipment where infrastructure already exists and pre-dates the Act. Examples of co-locations that have occurred in the Central Pine Barrens include facilities on County Route 51 and County Route 104 in the Core. The Commission rendered decisions on core hardship waivers for new towers and communications facilities in the Core. These include a Compelling Public Need core hardship waiver for the application known as Rockwell Collins and a denial without prejudice for the Gazza Monopole Core hardship.

New communications facilities in the CGA are required to conform with the standards for land use outlined in the Plan. The Towns typically review new communications facilities in the CGA, as is the case for most CGA development projects. In general, absent non-

conformance with the Plan, the Commission is unaware of CGA development projects.

The Town of Southampton's Wireless Communications Plan prioritizes sites suited for co-location opportunities and identifies gaps in service for siting new facilities.

### **RESIDENTIAL ROADFRONT EXEMPTION LIST**

Aside from development that existed at the time the Plan became effective, new development in the Core has occurred on parcels identified in the "Residential Roadfront Exemption List." Development of the parcels is permitted without a hardship waiver from the Commission, pursuant to Sections 57-0107(13)(x) and (xv) of the Act.

In 2001, the roadfront list was expanded to add 24 parcels. A total of 129 parcels are on the list, however, some have been protected either through the Credit Program or acquisition and therefore are not developed.

### **HARDSHIP WAIVERS**

Since 1995, there have been a total of 127 approvals and 39 denials for projects in the Central Pine Barrens resulting in a total of 166 decisions made by the Commission. As of 2020, the Commission has granted 61 Core hardship waiver approvals and issued 30 disapprovals for a total of 91 Core decisions. The Commission has granted 66 CGA hardship waiver approvals and nine (9) disapprovals for a total of 75 CGA decisions.

**A. INTRODUCTION**

This chapter reviews the goals and objectives that were established in the Act and the Plan as they relate to land use, zoning and public policy. It reviews the prior GEIS analyses for the Plan and evaluates the Plan Amendments and the potential impacts, if any, the Amendments may have on land use, zoning, and public policy that may result from their adoption and implementation. Mitigation and alternatives are also examined.

The land use plan for the Central Pine Barrens was designed to: preserve the functional integrity of the pine barrens ecosystem; protect the quality of surface and groundwater, discourage piecemeal and scattered development, promote active and passive recreational and environmental educational uses, accommodate development consistent with the long-term integrity of the pine barrens ecosystem and ensure the pattern of development is compact, efficient, and orderly.

The Plan continues to preserve and enhance significant natural resources in the Central Pine Barrens including plant and animal populations and ecological communities and to protect the quality of surface water and groundwater resources through the implementation of development standards through stewardship and land management policies. It continues to achieve the goals and objectives to redirect development from the Core to the CGA and outside the Central Pine Barrens through mechanisms such as the Pine Barrens Credit Program and through land acquisitions in the Core. Evidence of the Plan's success continues to be demonstrated by public agency support to protect the resources of the Core through the preservation and acquisition of a significant amount of the Core. An estimated 44,936 acres or 79% exceeds the Plan's goal of 75% acquisition. The Credit Program has facilitated significant land preservation in the Core through conservation easements on approximately 1,986 acres.

Since 1995, the Central Pine Barrens jurisdictional boundaries have been expanded to include three areas in the Town of Brookhaven: Wertheim National Wildlife Refuge, land in the Carmans River Watershed and discrete areas of Shoreham and Mastic. In 1998, the inclusion of Wertheim in the Core added more than 2,000 acres to the region. In 2013, the Town of Brookhaven initiative to protect the Carmans River Watershed involved 4,375 acres of land in the Central Pine Barrens. In 2019, approximately 1,100 acres were added to the Core consisting of about 800 acres in Shoreham and 300 acres in an area known as Mastic Woods. The current land area of the CGA is 48,665 acres. The land area in the Core is 57,817 acres. The total area is 106,482 acres.

Development in the CGA continues in accordance with the goals and objectives outlined in

the Act including preserving the essential character of the pine barrens, encouraging compatible residential, commercial, agricultural and industrial development in a compact, efficient and orderly pattern through the implementation of development standards and land use policies contained in the Plan and incorporated into town zoning codes while accommodating a portion of development redirected from the Core through initiatives and management of the Pine Barrens Credit Program.

To further enhance and effectuate the Plan's ability to carry out the goals and objectives of the Act, Plan Amendments have been developed that contain ministerial and non-ministerial changes to the Plan in Chapter 4: Review Procedures, Chapter 5: Standards and Guidelines for Land Use, and Chapter 6: Pine Barrens Credit Program. The Amendments are largely characterized as administrative in nature. They serve to clarify terms and memorialize past resolutions, policies and decisions issued by the Commission and provide references to current standards, codes, and other regulations that have been adopted since the 1995 Plan. Non-ministerial amendments originate in the goals and objectives of the statute. They offer consistency with other regional and local land use policies and address thresholds that may impact the resources of the Central Pine Barrens. The amendments are evaluated in accordance with the SEQRA regulations.

**B. 1994 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS), 1995 SUPPLEMENTAL DGEIS, AND FINDINGS STATEMENT**

The 1994 DGEIS and 1995 SDGEIS evaluated the Plan's efforts to protect, preserve and enhance the functional integrity of the Pine Barrens ecosystem and the significant natural resources, including plant and animal communities, thereof; to protect the quality of the surface and groundwater; discourage scattered and piecemeal development; promote active and passive recreational and environmental educational uses that are consistent with the land use plan; and 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 SEQRA materials indicate that with respect to the Core the Plan preserves the Pine Barrens area in its natural state thereby ensuring the continuation of the Pine Barrens environment which contains the unique and significant ecologic, hydrogeologic and other resources representative of such environments; promotes compatible agricultural, horticultural and open space recreational uses within the framework of maintaining a Pine Barrens environment and minimizes the impact of such activities thereon; prohibits or redirects new construction or development; accommodates specific Pine Barrens management practices, such as prescribed burning, necessary to maintain the special ecology of the Core; protects and preserves the quality of surface and groundwaters; and coordinates and provides for the acquisition of private land interests as appropriate and consistent with available funds.

The Act and the Plan facilitate the preservation of and maintain the essential character of

the existing Pine Barrens environment in the CGA including plant and animal species indigenous thereto and habitats therefor; protect the quality of surface and groundwaters; discourages piecemeal and scattered development; encourage appropriate patterns of compatible residential, commercial, agricultural, and industrial development in order to accommodate regional growth influences in an orderly way while protecting the Pine Barrens environment from the individual and cumulative adverse impacts thereof; and accommodate a portion of development redirected from the Core Preservation Area.

## **GEIS FINDINGS STATEMENT**

The GEIS analyzed potential impacts on environmental subjects including:

- Demographic Patterns
- Sewage Treatment Infrastructure
- Traffic and Noise Impacts
- Air Quality
- Impacts on Agricultural Lands
- Land Use and Zoning Patterns
- School and Other District Impacts

The GEIS concluded that the population was expected to decrease regionally as opposed to the effect without Plan implementation due to the PBC program and vacant land acquisition. Compact, efficient and orderly development would occur. As a result of the Plan and use of innovative planning mechanisms such as Planned Development Districts, regional infrastructure requirements would be reduced. The Plan would encourage the development of aesthetically pleasing mixed use projects in and around areas presently developed.

No significant adverse impacts were expected to traffic patterns and transportation and no significant adverse noise impacts were expected. It was demonstrated that the existing road network could accommodate the redirection of development, and site-specific mitigation would occur as required through the SEQRA process.

The density of development expected in the non-Core areas was evaluated. It was determined it would not have a significant adverse impact on air quality.

The Plan concluded that its implementation may result in a slight incremental increase in the pressure to convert farmland to non-farm uses in the non-Core areas due to the transfer of development from the Core. Farmland in the Core would be expected to remain and would ensure existing agricultural uses continued in the region.

Chapter 9, Physical Data, in Volume 2 of the Plan identified a range of land use categories that exist in the region from residential to open space, industrial and surface waters. The net result of the Plan was compact and efficient development which will protect the Central

Pine Barrens land. Designating receiving sites reduced the extensions of utilities, infrastructure, and community facilities, and thus the costs for facilities to municipalities and taxpayers. Potential adverse economic impacts were expected in the implementation of the Plan as it would result in a decrease in tax revenues generated from lands within the Core when land is acquired by a government entity or due to a reduction in the assessed value of a lot when the PBCs are severed from it. Mitigation included the residential roadfront exemption policy allowing development on select Core parcels and thus tax revenue to be generated; hardship exemptions to be considered on Core parcels; development in the non-Core areas of school districts, and as parcels are acquired or the PBCs associated with them are redirected to the non-Core areas, the number of potential students in an affected school district would be reduced.

Suffolk County's Drinking Water Protection Program supported the County's acquisition of many Pine Barrens parcels. As a result, lost tax revenues associated with acquisition is partially offset by a schedule of payments to affected districts. Government land acquisition of fee interest of lands in the Core reduced the number of PBCs transferred to non-Core areas, decreasing the potential number of residential units generated by PBC redemption. Reducing the number of potential students entering a specific school district concurrent with increasing real property taxes generated in the district from the conversion into non-residential uses was also a mitigating factor. In school districts in which potential adverse economic impacts were cited, the Commission sought to have the State and County prioritize acquisition. The non-residential redemption of PBCs in non-Core areas of the Town also mitigated adverse impacts to school districts, as well as the use of PDDs.

According to the 1995 FGEIS, there could be a financial incentive for the redemption of PBCs in nonresidential uses that could have a value two to three times greater than a PBC utilized for residential development. The redemption of PBCs for nonresidential uses should be considered by the Towns to increase the number of receiving sites.

As the SEQRA record stated, it was determined that for Southampton it would not be necessary to allow inter-school district transfers. By limiting PBC transfers to intra-school district transfers only, there would be no capacity concerns, because the total number of units that can be built in a district would remain constant - only the location of the units within the school district boundaries would change. The phasing of such development would be addressed by the Town Board.

In Riverhead, financially favorable non-residential development was expected to increase due to non-residential uses of PBCs generated in that district, thereby reducing the number of students in the district.

## **C. POTENTIAL IMPACTS OF THE PLAN AMENDMENTS**

### **OVERVIEW**



This section identifies and evaluates the potential impacts of the Plan Amendments on land use, zoning, and policy. The amendments to Chapters 4, 5 and 6 are analyzed in this section followed by a summary table that identifies each amendment and its potential impact or a brief reason to the change in the Plan.

Overall, the amendments are essentially ministerial in nature. They clarify, enhance and support Commission policies on land use, land management, development review and jurisdiction. The changes include, but are not limited to, adding context and references to the statute; providing a more detailed rationale in the preamble to standards; clarifying existing provisions, practices and policies and reaffirming past decisions. Amendments that comprise a new section, standard, or guideline are intended to provide certainty in the review processes and define terms that have been used in practice and established in more than 20 years since the Plan's adoption. The amendments aim to continue to implement the goals and objectives that originate in the statute. Where more substantive impacts are identified, new provisions, thresholds, and jurisdiction provide for greater protection of the natural resources of the Central Pine Barrens.

The Plan Amendments continue to support compact, efficient, and orderly development in the CGA in conformance with the standards and guidelines for land use that are contained in the Plan and included in the zoning codes for Brookhaven, Riverhead and Southampton Towns. The amendments continue to redirect growth from the Core to the CGA and to areas outside the Central Pine Barrens through enhancements and clarifications made to the Credit Program outlined in Chapter 6.

Given the Act and the Plan's goals and objectives in the CGA, and the proposed amendments that would provide greater protection of the natural resources of the pine barrens, no significant adverse impacts are expected as a result of the approval and adoption of the amendments. The amendments would require zoning codes to be amended in the Towns of Brookhaven, Riverhead and Southampton, as directed in Section 57-0121(13) of the Act. Therefore, no significant adverse impacts will occur to the three Town zoning codes.

The amendments require projects that meet DRS thresholds to be reviewed and approved by the Commission. Beneficial impacts are expected to land use development in the Central Pine Barrens by requiring projects of this magnitude to demonstrate conformance with standards and guidelines and to meet the goals and objectives of the Act to discourage piecemeal and scattered development in the CGA. The amendments provide for greater protection of the natural resources of the Central Pine Barrens.

#### *Chapter 4*

- Amendments in Chapter 4 are largely ministerial in nature. They include the addition of terms, such as project site, that have been used since the adoption of the Plan in 1995 and in past Commission practice and policy. Other changes include the

addition of references to the statute where applicable. The new definition of a Development of Regional Significance related to “water table exposure” gives the Commission jurisdictional review when a project reaches this DRS threshold.

### *Chapter 5*

- Amendments in Chapter 5 are largely ministerial in nature. They include changes to Standards and Guidelines that are minor, but result in greater protection of the resources of the CGA including non-disturbance buffers, reduction of impervious surfaces, invasive species mitigation, the clearance standard for state and public corporations, bird conservation measures and tall structures.

### *Chapter 6*

- Amendments in Chapter 6 are largely ministerial in nature and process related. They include clarifications and confirmation of existing policies and identify certainty in the process of allocating Pine Barrens Credits, hearing appeals and PBC transactions. No impact to the Plan is expected as a result of the amendments in Chapter 6.

## **CORE PRESERVATION AREA**

In the Core, the goals and objectives remain the same, to redirect development from the Core and facilitate acquisition where feasible to preserve the resources of the Core. As in 1995, the Plan Amendments do not relax measures that exist to protect resources. The Plan continues to protect resources and coordinates the Pine Barrens Credit Program with land use development in the CGA and outside the Central Pine Barrens to minimize potential adverse environmental impacts on the resources of the region.

## **COMPATIBLE GROWTH AREA**

The Plan Amendments that affect the resources of and development in the CGA are outlined in each chapter section as follows.

### CHAPTER 4 AMENDMENTS AND POTENTIAL IMPACTS

Chapter 4 of the Plan contains the procedures used by the Commission to review development in the Central Pine Barrens as provided for by the Act. This chapter defines terms and phrases related to the development review process, procedures, the Commission’s jurisdiction, and related thresholds that determine their review authority.

In Chapter 4, substantive amendments were developed to the definitions for Developments of Regional Significance, specifically the thresholds for residential units, mixed use development, and a new provision to address projects that expose the water table. The Act

and the Plan currently authorize the Commission to review DRS projects that may affect the resources of the Central Pine Barrens. Since 1995, only six DRS projects have been proposed and decided including one application that was withdrawn.

The Plan currently defines DRS thresholds for residential and mixed-use projects. The added threshold related to water table exposure gives the Commission jurisdiction to review a development project that may potentially impact groundwater resources through a variety of changes. Potential impacts related to water table exposure include temperature, evaporation, and transport of contaminants. Management-related concerns that arise when an artificial water body is created that exposes surface water include protection, public safety, and enforcement.

Other amendments in Chapter 4 are ministerial in nature; they combine and clarify existing provisions and codify existing policies and past practice. No impacts occur in the review of amendments against the criteria for SEQRA Determination of Significance outlined in Section 617.7(c) of the SEQRA regulations including where a word or term was added to a section title, reference to an updated regulation, additional rationale or clarified provisions, a ministerial change, or where past and current practices were defined and established by resolution or decision. See the summary of Chapter 4 amendments and potential impacts in Figure 3-1.

Figure 3-1: Summary List of Chapter 4 amendments and impacts

<b>CHAPTER 4 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>	<b>IMPACT</b>
4.2 Intent	Encourages interagency data sharing and coordination for efficiency	No impact, Administrative amendment
4.3 Definitions	Adds reference to the Plan	No impact
4.3.2 Plan	Adds reference to the Act	No impact
4.3.5.1 Interpretation of “nondevelopment” provision 57-0107(13)(xiii)	New subsection Clarification of provision in the Act	No impact, based on Commission resolution dated 7/19/07 policy on five or fewer conforming lots in a subdivision
4.3.9 Project Site	New section, defines term	No impact, consistent with past practice
4.3.10 Self-Heal Restoration, Self Restoration	New section, defines new term	No impact
4.3.11 Tall Structure	New section, defines new term	No impact, originates in ECL Article 57 Section 57-0121(4)
4.5.2 Development located within the Compatible Growth Area which does not conform to the standards contained in Volume 1, Chapter 5 of the Plan (“nonconforming development”)	Adds term “nonconforming development” to section heading	No impact, Ministerial amendment
4.5.2.1 Nonconforming development: Filing of an application	Adds term “nonconforming development” to title	No impact, Ministerial amendment

<b>CHAPTER 4 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>	<b>IMPACT</b>
4.5.2.3 Nonconforming development: Completeness determination deadline	Adds term “nonconforming development” to title	No impact, Ministerial amendment
4.5.3 Development located within the Compatible Growth Area which has been subjected to a petition by the Commission pursuant to ECL Section 57-0123(2) (“assertion development”)	Adds term “assertion development” to title	No impact, Ministerial amendment
4.5.3.2 Assertion development: Hearings and assertion of review jurisdiction	Adds term “assertion development” to title	No impact, Ministerial amendment
4.5.3.3 Assertion development: Review standards	Adds term “assertion development” to title, adds reference to the Act	No impact, Ministerial amendment
4.5.4 Development located within the Compatible Growth Area which is also located within a Critical Resource Area (“CRA development”)	Adds term “CRA development” to title	No impact, Ministerial amendment
4.5.4.1 CRA development: Definition of Critical Resource Areas	Adds term “CRA development” to title and adds reference to and excerpt from the Act Section 57-0121(6)(e)	No impact, Ministerial amendment
4.5.4.1.1 Brookhaven Town Critical Resource Areas	New subsection identifying Brookhaven CRAs	No impact, no change to existing CRAs
Figure 4-1 depicts existing Critical Resource Areas in the Town of Brookhaven.	Amended Figure lists only existing Brookhaven Town CRAs and identifies ownership of CRAs	No impact, no changes to CRAs or the number of CRAs
4.5.4.1.2 Southampton Town Critical Resource Areas	New subsection identifying Southampton CRAs	No impact, no change to CRAs or the number of CRAs Parcels have not changed since 1995. If changes in parcel numbers appear, it is a clarification. It does not represent an additional CRA parcel.
Figure 4-4: Critical Resource Areas in the Southampton Town CGA	New Figure, list identifies Southampton CRAs and describes features	No impact, Ministerial amendment
4.5.4.2 CRA development: Review standards	Adds term “CRA Development” to title	No impact, Ministerial amendment
4.5.4.3 CRA development: Application and hearing	Adds term “CRA Development” to title	No impact, Ministerial amendment
4.5.4.4 CRA development: Decision on the application	Adds term “CRA Development” to title	No impact, Ministerial amendment
4.5.4.5 CRA development: Default decisions	Adds term “CRA Development” to title	No impact, Ministerial amendment
4.5.5 Developments of Regional Significance located within the	Adds term “DRS Development” to title	No impact, Ministerial amendment

CHAPTER 4 SECTION AMENDMENT	SUMMARY OF AMENDMENT	IMPACT
Compatible Growth Area (“DRS development”)		
4.5.5.1 DRS development: Definition of a Development of Regional Significance	Adds term “DRS Development” to heading, new preamble to introduce DRS thresholds	No impact. Resource preservation originates in ECL 57-0121.
4.5.5.1 #1 Non-residential floor area, exceeds 300,000 square feet of gross floor area	Existing threshold, adds educational institutions and health care facilities	No impact. Rewords existing provision and adds nonresidential uses including educational and health care facilities
4.5.5.1 #2 Development of 200 or more residential units	New provision that reduces the number of units that will be reviewed as a DRS and includes multi-family development projects	Potential impact. Results in greater jurisdiction over projects with 200 or more residential units, where the existing provision applies to projects with 300 or more units. Requires DRS application.
4.5.5.1 #3 Development of 400,000 square feet or greater of mixed uses	New provision to define mixed use projects and related projects of this size and scale	Potential impact. Results in greater jurisdiction, review over mixed use development projects. Requires DRS application.
4.5.5.1 #4 Development of surface water features that expose groundwater	New provision to protect water resources in accordance with the Act and Plan	Potential impact. Results in greater jurisdiction, involves review over projects that expose groundwater when surface water area meets or exceeds three acres. Requires DRS application.
4.5.5.2 DRS development: Review standards	Adds DRS Development to title	No impact, Ministerial amendment
4.5.5.3 DRS development: Application and hearing	Adds DRS Development to title	No impact, Ministerial amendment
4.5.5.4 DRS development: Decision on the application	Adds DRS Development to title	No impact, Ministerial amendment
4.5.5.5 DRS development: Default decisions	Adds DRS Development to title	No impact, Ministerial amendment

The following section is an evaluation of the more substantive Plan Amendments in Chapter 4 and potential environmental impacts if any on land use, zoning and policy. Specific amendments in Chapter 4 that were identified as non-ministerial and are further analyzed include:

- 4.5.5.1 DEFINITION OF A DEVELOPMENT OF REGIONAL SIGNIFICANCE (DRS)
  - #2 Residential DRS
  - #3 Mixed Use DRS

- *#4 Water Table Exposure DRS*

#### *4.5.5.1 DEFINITION OF A DEVELOPMENT OF REGIONAL SIGNIFICANCE (DRS)*

##### *#2 Residential DRS*

This is an amendment to an existing DRS definition in the Plan that expands Commission jurisdiction over development projects to now include projects of 200 or more residential units regardless of configuration as single-family or attached units. Currently, the Plan definition applies to the review of development projects with 300 or more single-family units. The Plan continues to require submission of a DRS application for review and decision if the project achieves a DRS threshold. Although a development project in this category requires submission of a DRS application, pursuant to Section 57-0123(2)(a) of the Act, if the application demonstrates conformance with the Standards and Guidelines for land use development then a hardship waiver is not required. If the project does not conform with one or more standards and guidelines, a hardship waiver application must be submitted, pursuant to the provisions and review procedures outlined in the Act and the Plan.

Given the decreasing amount of land available for development in the CGA, there is a limited number of potential project sites with the capacity to develop 200 or more units. Aside from conformance with the Plan, other limiting factors exist such as conformance with Article 6 of the Suffolk County Sanitary Code and potential adverse traffic impacts from large scale developments. Site specific impacts require a thorough SEQRA analysis.

A development project of this size in the CGA would be expected to be developed in a compact, efficient, and orderly pattern, minimizing impacts on the resources of the CGA. A project in this category may result in impacts on one or more environmental subjects such as traffic, loss of habitat, or school district impacts and may require the preparation of a site-specific Environmental Impact Statement (EIS). In the case of an EIS for a development project in the CGA, the Commission would be an involved agency pursuant to SEQRA and would offer comments on the project if necessary during the SEQRA process.

This amendment, if approved and adopted by the Commission, would require the Towns of Brookhaven, Riverhead and Southampton to adopt the amendments and amend their zoning codes as required by NYS ECL Section 57-0121(13). Although Town Code amendments will be necessary, no significant adverse environmental impacts will occur on zoning regulations.

This amendment would cause a beneficial impact on land use in the Central Pine Barrens by requiring projects of this magnitude to conform with standards and guidelines for development outlined in the Plan and, in the goals and objectives of the Act, for compact, orderly and efficient development in the CGA. The amendment is more protective of pine barrens resources. Therefore, no significant adverse environmental impacts to land use,

policy and zoning will occur from the adoption and implementation of this amendment.

### #3 Mixed Use DRS

This is a new subsection to the Plan DRS definitions that expands jurisdiction over mixed-use development projects containing 400,000 square feet or more. Mixed use projects, such as The Meadows at Yaphank Planned Development District, are emerging as preferred development plans since they combine commercial and residential uses on the same project site, allowing for potential reductions in vehicle trips and miles traveled and offer walkable communities with live and work opportunities.

A project in this category requires submission of a DRS application to the Commission to review a project's conformance with the standards and guidelines for land use development. A hardship waiver is not required unless the project does not conform with one or more standards and guidelines.

The number of potential project sites available in the CGA to accommodate the development of large-scale mixed-use projects is limited due to the other potential needs in this type of community such as proximity to a railroad station, transit hub, or downtown setting. More land area may be required than would be available on most project sites in the CGA unless traditional design and zoning standards are significantly modified, for example, to accommodate more units and greater building heights. The CGA is significantly developed with single-family residential subdivisions, commercial uses, industrial uses, and agricultural lands. A few downtown settings exist in hamlets in the CGA such as in Rocky Point, Yaphank and Riverside. Limited opportunities exist at the present time in terms of land area for large-scale mixed-use development projects to occur.

A mixed-use development project in the CGA would develop in a compact, efficient, and orderly pattern, minimizing impacts on the resources of the CGA. In addition, a project in this category may result in impacts on one or more environmental subjects, such as traffic or wastewater requiring the preparation of a site-specific environmental impact statement (EIS). The Commission would be an involved agency pursuant to SEQRA and have the opportunity to comment on the project during the SEQRA process.

Given the Act and the Plan's goal of compact, efficient, and orderly development in the CGA, no significant adverse impacts are expected as a result of this amendment. This amendment, if approved and adopted by the Commission, would require the Towns of Brookhaven, Riverhead and Southampton to adopt the amendments and amend their zoning codes as required by Section 57-0121(13) of the Act. Although the amendments require Town Codes to be amended, the Code amendments will not have a significant adverse environmental impact on zoning regulations.

Beneficial impacts would occur to land use in the Central Pine Barrens by requiring development projects of this magnitude to demonstrate conformance with Plan standards

and guidelines and the goals and objectives of the Act to achieve compact, orderly and efficient development in the CGA. The amendment provides for greater protection of pine barrens resources.

#### #4 Water Table Exposure DRS

This is a new subsection to the DRS definitions in the Plan that expands Commission jurisdiction over development projects that expose the groundwater table, for a purpose other than public water supply. Examples of a DRS involving water table exposure include, but are not limited to, excavation and construction of a pond that requires a NYSDEC Mined Lands Reclamation Permit, or the exposure of groundwater that may occur when sand and gravel mining activity deepens to expose groundwater.

The impetus for this amendment was to establish additional opportunities to review projects that may have the potential to result in adverse impacts on water resources and other natural resources. The protection of water resources and ecological resources are primary objectives of the Long Island Pine Barrens Protection Act. Therefore, it is reasonable for the Commission's purview to extend to projects that may impact groundwater and surface water resources. This addition to its jurisdictional authority will ensure that the Commission has an opportunity to review and evaluate the potential impacts of a project. Analyses of impacts may include potential hydrogeologic changes in flow and elevation; potential impacts on groundwater quality and/or quantity from evaporation and temperature changes or introduction of contaminants; potential impacts on public water supply wellfields and other pumping sources and operations including private well systems; potential drawdown impacts on freshwater wetlands; potential public health and safety concerns such as from erosion and slope instability; legacy contamination; and the long-term financial and management responsibilities and commitments for public safety, protection and maintenance of exposed water features and immediate environs.

The amendment ensures the Commission has an opportunity to consider other impacts if the project site contains natural habitat and its potential loss, the potential net loss of soil resources and changes in natural topographic features. Potential impacts may affect water resources, safety concerns and redevelopment and reclamation opportunities.

The amendment provides Commission oversight on projects that may result in potential adverse environmental impacts to natural resources in the Central Pine Barrens. It is consistent with the Act for the Commission to have jurisdiction to review projects that expose the water table and ensure the goals and objectives of the Act are met and to determine if projects that expose the water table conform with the standards and guidelines of the Plan. A project of this type will be required to follow the SEQRA process and requiring Commission review of such projects ensures potential significant adverse environmental impacts are identified and mitigated in accordance with the SEQRA process. This amendment supports the continued protection of groundwater and ecological resources and results in beneficial impacts to land use and policy in the Central Pine Barrens.



CHAPTER 5 AMENDMENTS AND POTENTIAL IMPACTS

The Plan Amendments in Chapter 5 contain ministerial changes that confirm existing and past practice of the Commission; reflect adopted decisions and elaborate, expound upon and clarify provisions including standards and guidelines that provide greater certainty in the review process. Amendments with substantive changes are examined more closely for potential adverse environmental impacts.

Where there was the addition of a word, expanded rationale, clarified provision, ministerial change, or amendment to codify past and current practice established by resolution or decision, none of the Determination of Significance criteria outlined in Section 617.7(c) of the SEQRA regulations are triggered. These are noted in the summary Figure 3-2. Where a new amendment is proposed, it has its statutory foundation in Section 57-0121 of the Act.

**Figure 3-2: Summary List of Chapter 5 Amendments and Impacts**

<b>CHAPTER 5 SECTION AMENDMENT (S) Standard; (G) Guideline</b>	<b>SUMMARY OF AMENDMENT</b>	<b>IMPACT</b>
5.1 Central Pine Barrens overall area	Adds references to the Act, clarifies continuance of pre-existing uses, refers to Section 57-0123(3)(a) of the Act	No impact
5.3.1 Applicability and other policies	Adds reference to updated agricultural manual and requirements to obtain other required permits	No impact, current practice
5.3.2 State Environmental Quality Review Act	Adds term “development”	No impact, ministerial amendment
5.3.3 Intent and Compatible Growth Area standards	Changed term from law to requirement	No impact, ministerial amendment
S 5.3.3.1 Sanitary waste, nitrate-nitrogen and other chemicals of concern	Expanded title to include “sanitary waste” and “other chemicals of concern” and preamble to include reference to contaminants of anthropogenic origin	No impact, ministerial amendment
S 5.3.3.1.1 Suffolk County Sanitary Code Article 6 compliance	Adds title of sanitary code and refers to “development”	No impact, ministerial amendment Corrects permit requirement reference
S 5.3.3.1.2 Sewage treatment plant discharge	Change of term from “denitrification” to “treatment” systems	No impact Corrects permit requirement reference
S 5.3.3.1.3 Suffolk County Sanitary Code Articles 7 and 12 compliance	Existing provision, clarifies policy	No impact Corrects permit requirement reference

<b>CHAPTER 5</b> <b>SECTION AMENDMENT</b> (S) Standard; (G) Guideline	<b>SUMMARY OF AMENDMENT</b>	<b>IMPACT</b>
S 5.3.3.1.4 Commercial and industrial compliance with the Suffolk County Sanitary Code	New subsection Existing provision, clarifies policy	No impact Corrects permit requirement reference
G 5.3.3.1.5 Nitrate-nitrogen	New subsection Existing provision, clarifies policy Changes language from “may” to “shall” for a project to achieve the concentration of 2.5 mg/l nitrate-nitrogen to protect surface water quality. Removes “for projects in the vicinity of ponds and wetlands”	Potential impact. Reduces ambiguity since the term “vicinity” was not quantified in terms of distance. As a Guideline, this only applies to projects defined as DRS, CRA or Assertions of Jurisdiction. Otherwise Guidelines are advisory in their application.
5.3.3.3 Wellhead and groundwater protection	Adds reference to applicable State Code provision	No impact, administrative amendment
S 5.3.3.3.1 Significant discharges and public supply well locations	Clarifies standard Removes term “nearby”	No impact, required by NYSDEC
5.3.3.4 Wetlands, and surface waters and stormwater runoff	Combines standards, elaborates on application and regulations	No impact
S 5.3.3.4.1 Nondisturbance buffers	Elaborates on habitat protection, adds wetland protection on sites not subject to other regulatory authority	Potential impact. Buffer requirement may impact minimal subset of projects, but is not expected to be greater than that of other regulations, if they were applicable, and is consistent with other regulations. Corrects permit requirement reference  The requirement to delineate wetlands on project sites where no other agencies are involved may result in wetland habitats such as vernal ponds to be identified, requiring buffers and other protection measures that may reduce a project’s development envelope.
S 5.3.3.4.2 Wild, Scenic and Recreational Rivers Act compliance	Combines existing standards	No impact Corrects permit requirement reference
S 5.3.3.4.3 Stormwater recharge	Combines existing standards Changes terms “must” to “shall” and “property” to “project site”	No impact

<b>CHAPTER 5</b> <b>SECTION AMENDMENT</b> (S) Standard; (G) Guideline	<b>SUMMARY OF AMENDMENT</b>	<b>IMPACT</b>
S 5.3.3.4.4 Reduction of Impervious Surfaces	<p>Clarifies existing practice and refers to open space standard</p> <p>Codifies existing practice consistent with amendment to open space standard.</p> <p>All sites required to conform to open space standard whether or not the site is vegetated.</p>	<p>Potential impact.</p> <p>Development project sites required to comply with open space standard, regardless of existing cleared condition.</p> <p>Sites overcleared prior to the Act are no longer “grand-fathered” allowing development over the entire site. Open space must be set in a development project regardless of existing cover. The development envelope may be reduced on sites that are presently overcleared and engage in development activity. Beneficial impacts will occur from the set aside in the CGA regardless of a site’s present condition.</p> <p>Comports with Section 5.3.3.6.1.7</p>
S 5.3.3.4.5 Natural recharge, drainage, and ponds	New subsection Reiterates existing provision	No impact
5.3.3.6 Natural vegetation and plant habitat Coordinated design for open space, habitat and soil protection	Elaborates on preamble, planning and design to maximize preservation of open space, expounds upon background	No impact
S 5.3.3.6.1.1 Non-contiguous parcels	New subsection Existing practice	No impact
S 5.3.3.6.1.2 Split zoned sites	New subsection Existing practice	No impact
S 5.3.3.6.1.3 Residential Overlay Districts, PBCs and clearing limits	New subsection Existing practice based on resolution 9/26/01 and 9/20/17	No impact
S 5.3.3.6.1.4 Environmental restoration	New subsection Existing practice	No impact. Areas where environmental restoration has occurred will be considered natural for purposes of potential future development or redevelopment.
S 5.3.3.6.1.5 Hardship requirement for relief of clearing limits	New subsection Existing requirement Clarifying see 4.5.2	No impact

<b>CHAPTER 5 SECTION AMENDMENT (S) Standard; (G) Guideline</b>	<b>SUMMARY OF AMENDMENT</b>	<b>IMPACT</b>
S 5.3.3.6.1.6 Split Core/CGA parcels and clearing	New subsection Existing policy in the Plan, separated	No impact
S 5.3.3.6.1.7 Cleared sites	New subsection Clarification needed, may conflict with open space standard	No impact. This standard appears to conflict with open space requirement that applies even on cleared sites. Need to correct for consistency.
5.3.3.6.2 Open space standard requirement, unfragmented open space and habitat	Elaborates on unfragmented open space and related principles of conservation design	No impact
S 5.3.3.6.3 Fertilizer-dependent vegetation limit	Refers to native plants and restoration activity	No impact
S 5.3.3.6.4 Native plantings Figure 5-2: Planting recommendations	Expands plant list of acceptable and unacceptable plants	No impact
S 5.3.3.6.5 Receiving entity and protection for open space areas	New subsection Existing provision, elaborates on decision	No impact
S 5.3.3.6.6 Buffer delineations, covenants and conservation easements	New subsection Existing provision	No impact
S 5.3.3.6.7 Invasive plant species mitigation	New subsection New standard applies to sites that preserve 10 acres or more of open space to identify extent of invasives in open space.	Potential impact minimized since only applies to sites preserving 10 acres or more.
G 5.3.3.6.7.1 Invasive Species Mitigation	New subsection Permits removal of invasives on no more than two acres	No impact. Applies only if development project achieves the threshold requiring conformance with Guidelines, would a restoration plan be required for no more than two acres.

<b>CHAPTER 5 SECTION AMENDMENT</b> (S) Standard; (G) Guideline	<b>SUMMARY OF AMENDMENT</b>	<b>IMPACT</b>
Figure 5-1: Clearance and Open Space Standards (related to standard 5.3.3.6.1)	<p>Amended figure quantifies open space percentage requirement as opposite of clearing percentage. Clearing percentage reduced from 65% to 60% for “all other zoning categories” such as schools and libraries.</p> <p>Permits state and public corporations to clear 60% where currently the uses may be subject to their more restrictive residential zoning districts.</p>	<p>Potential minimal impact. Amendment reduces clearing allowance by 5% from 65% to 60% in the “all other zoning category.”</p> <p>May result in adverse impacts on a minimal set of projects, but may balance out for land uses in more restrictive zoning districts.</p> <p>Less restrictive for state and public corporations currently subject to stricter residential zoning categories. Reducing clearing by 5% in the category of non-residential zoning districts may affect development.</p>
5.3.3.7 Protection and conservation of species and communities	Elaborates on preamble, adds reference to songbirds, forest interior, and other groups of birds	No impact
S 5.3.3.7.1 Special species and ecological communities	Word clarification	No impact
G 5.3.3.7.2 Bird conservation and protection	New. Suggests design elements to reduce bird collisions	Potential impact to applicant to incorporate design features for bird conservation, but only applies to projects required to conform to Guidelines and is qualified “to the greatest extent practicable”
5.3.3.9 Dark sky compliance	New. Preface to standard, explains effects of light pollution	No impact
S 5.3.3.9.1 Light pollution prevention	New. Applies only to project not subject to municipal review.	No impact, consistent with Town Code regulations. Only applies to projects required to conform with Guidelines.
5.3.3.11 Scenic, historic and cultural resources	Elaborates preamble and refers to new Chapter 4 definition of Tall Structure. That applies to projects proposed by public corporations and that are not subject to municipal review.	No impact

<b>CHAPTER 5 SECTION AMENDMENT (S) Standard; (G) Guideline</b>	<b>SUMMARY OF AMENDMENT</b>	<b>IMPACT</b>
G 5.3.3.11.1 Tall structures and scenic resources	New, has minimal application.  Applies only to public corporations and those not subject to municipal review.	Potential impact on a small subset of development projects not subject to local review.  If structure is more than 75 feet tall, requires hardship waiver.
G 5.3.3.11.2 Cultural resource consideration	Adds reference to views identified and listed in Volumes 1 and 2	No impact, ministerial amendment
G 5.3.3.11.3 Inclusion of cultural resources in applications	Existing provision, renumbered	No impact, ministerial amendment
G 5.3.3.11.4 Protection of scenic and recreational resources	Existing provision, renumbered	No impact, ministerial amendment
G 5.3.3.11.5 Roadside design and management	Existing provision, renumbered.	No impact, ministerial amendment
Figure 5-2: Scenic Roads and Areas in the Central Pine Barrens	New Figure 5-2 provides list of existing scenic roads and areas in the Central Pine Barrens	No impact, ministerial amendment

The amendments, if approved and adopted by the Commission, would require the Towns of Brookhaven, Riverhead, and Southampton to amend their zoning codes to include the amendments as required by Section 57-0121(13) of the Act.

Specific amendments in Chapter 5 that were identified as non-ministerial and are further analyzed below include:

- *Guideline 5.3.3.1.5 Nitrate-nitrogen*
- *Standard 5.3.3.4.1 Nondisturbance buffers*
- *Standard 5.3.3.4.4 Reduction of Impervious Surfaces*
- *Section 5.3.3.6 Coordinated Design for Open Space, Habitat and Soil Protection*
  - *Standard 5.3.3.6.1.1 Non-contiguous parcels*
  - *Standard 5.3.3.6.1.2 Split zoned sites*
  - *Standard 5.3.3.6.1.3 Residential Overlay Districts, PBCs and clearing limits*
  - *Standard 5.3.3.6.1.4 Environmental restoration*
  - *Standard 5.3.3.6.1.5 Hardship requirement for relief of clearing limits*
  - *Standard 5.3.3.6.1.6 Split Core/CGA parcels and clearing*
  - *Standard 5.3.3.6.1.7 Cleared sites*
  - *Section 5.3.3.6.2 Open space requirement, unfragmented open space and habitat*
  - *Standard 5.3.3.6.5 Receiving entity and protection for open space areas*
  - *Standard 5.3.3.6.6 Buffer delineations, covenants and conservation easements*

- *Standard 5.3.3.6.7 Invasive plant species mitigation*
- *Guideline 5.3.3.6.7.1 Invasive Species Mitigation*
- *Guideline 5.3.3.7.2 Bird conservation and protection*
- *Standard 5.3.3.9.1 Dark sky compliance*
- *Guideline 5.3.3.11.1 Tall structures and scenic resources*

#### *Guideline 5.3.3.1.5 Nitrate-nitrogen*

This amendment seeks to improve the existing guideline of 2.5 ppm of nitrate nitrogen. It applies to DRS projects that propose development in a CRA or when the Commission has asserted jurisdiction over a project. It eliminates the vagueness and uncertainty of qualifying, subjective language “in the vicinity of.” Past projects have adhered to this restriction regardless of distance to the nearest wetland. The change in language from “may” to “shall” when applicable provides certainty in the application review process. As nitrogen continues to be a significant factor in measuring water quality of groundwater and surface water resources, this amendment ensures that regionally-significant projects conform with the Plan. It results in greater environmental protection in the Central Pine Barrens. No significant adverse environmental impacts are expected as a result of this amendment since it is expected to affect a minimal number of projects will be affected.

#### *Standard 5.3.3.4.1 Nondisturbance buffers*

This amendment to an existing standard is minor in nature and applies to a subset of development projects that are not currently reviewed by local municipalities such as school or utility projects. One goal this amendment achieves is providing continuity and consistency in the regulatory review process of wetland habitat protection on a development project site.

The Act and Plan support wetland protection including small vernal or seasonal ponds or unmapped habitats where rare and endangered species of flora and fauna exist. Because a gap in regulatory oversight was identified, this amendment aims to capture and preserve natural wetland resources that could otherwise go unprotected. Although the amendment may result in minimal additional time and cost to an applicant to delineate a potentially small wetland habitat not mapped by other agencies, and requires protection of wetland habitat, no significant adverse impacts are expected as a result of this amendment. This amendment is expected to continue to benefit and protect pine barrens natural resources in accordance with the Act and the Plan and it will have a beneficial impact on land use, policy and zoning.

This amendment if approved and adopted by the Commission would require the Towns of Brookhaven, Riverhead, and Southampton to amend their zoning code to include this amendment as required by Section 57-0121(13) of the Act. Although the amendments require Town Codes to be amended, the Code amendments will not have a significant adverse environmental impact on zoning regulations.

#### *Standard 5.3.3.4.4 Reduction of Impervious Surfaces*

This is a new proposed standard in the Plan. The intent of this amendment is to work in coordination with the open space standard. This Plan Amendment requires development project sites that are extensively cleared and contain existing large areas of impervious surfaces which do not conform to the Plan's clearing and open space standards due to their prior use or development (e.g., former box store or movie theater sites) and that predate the Act, to conform with the Plan's standard for open space. Impervious surfaces reduce the infiltration rate of precipitation into groundwater and accelerate runoff that carries contaminants and soil sediments to surface water bodies such as streams, rivers, lakes and ponds and to recharge basins.

Hard, dry surfaces such as roofs, sidewalks, roads, buildings, and parking lots provide less shade and moisture than natural landscapes and therefore contribute to higher temperatures potentially in runoff that could impact nearby streams and other water bodies and potentially increase the presence of non-native species that prefer warmer areas. Trees, vegetation, and water bodies tend to cool the air by providing shade, transpiring water from plant leaves, and evaporating surface water, respectively. The intent of this standard is to provide greater protection of the natural resources in the CGA by reducing the potentially adverse impacts of large impervious surface areas by restoring natural vegetation to the site that would serve as open space.

The revegetation of these sites will improve the ability of precipitation to infiltrate into ground water, reduce contaminant transport and reduce higher temperatures associated with impervious pavement. The amendment requires the development project site to conform with the applicable open space standard by allowing the site to revegetate back using the self-heal process if viable instead of plantings and may require the removal of pre-existing concrete or asphalt surfaces to meet this requirement. The standard aims for the Plan to continue to implement the goals and objectives of the Plan and the Act. No significant adverse impacts are anticipated to water resources due to this Amendment and instead there will be a beneficial impact to water resources as discussed in this section.

#### *SECTION 5.3.3.6 COORDINATED DESIGN FOR OPEN SPACE, HABITAT AND SOIL PROTECTION*

The amendments in this section elaborate the preamble to provide a more in-depth background on the planning and design methods employed to maximize the preservation of open space and natural and cultural resources in the Central Pine Barrens.

##### *Standard 5.3.3.6.1.1 Non-contiguous parcels*

This is a new standard that specifically applies to development project sites comprised of noncontiguous parcels for the purpose of determining compliance with the vegetation



clearance limit standard 5.3.3.6.1. The intent of this standard conforms with the goals and objectives of the Act, the Plan, and existing practice and policy of the Commission, which includes encouraging clustering on sites that include noncontiguous parcels, especially to preserve and protect significant environmental features such as ecological communities, rare and endangered species, habitat, historic resources, or steep slopes. No adverse impacts on land use and policy are expected as a result of this amendment. Preservation of Central Pine Barrens resources, contiguous or noncontiguous parcels, is one of the primary objectives of the Act, along with the protection of water resource quality and quantity.

*Standard 5.3.3.6.1.2 Split zoned sites*

This is a new standard that is consistent with current Commission practice to specifically define the total clearing allowance when a site is divided among more than one zoning category. The standard is consistent with the existing Plan where no one zoning district on a project site, regardless of extent of coverage, takes precedence over another or outweighs another.

In a case where more than one zoning district covers a project site, the clearance limit calculation for the entire project site is the sum total of area (acreage) of each zoning category multiplied by the clearing percentage for that zoning category as defined in the Plan in Figure 5-1 which prescribes the clearing percentage based on a zoning district. For instance, if a site's acreage is divided by commercial and residential zoning districts, the clearing standard is applied based on the area (acreage) in each different zoning district, regardless of whether one district is more dominant in area over the site than another district and regardless of land use.

The amendment reduces ambiguity as to how to determine the clearing limit for split zoned sites. No adverse impacts are expected to land use and policy as a result of this amendment since it is ministerial and codifies existing policy and practice.

*Standard 5.3.3.6.1.3 Residential Overlay Districts, PBCs and clearing limits*

This is a new standard that specifically outlines how to apply the clearing standard to project sites in a Residential Overlay District (ROD), which are identified in Chapter 6 of the Plan, when Pine Barrens Credits (PBCs) are redeemed for additional density. The policy that serves as the foundation for this standard was established in a Commission resolution adopted on September 26, 2001 and was further clarified and amended on September 20, 2017.

The 1995 SDGEIS Chapter 7: Impacts on Groundwater Quality examined allowances to reduce lot sizes when Pine Barrens Credits are redeemed in RODs. As a result, the Plan Section 6.4.4.2 "As of right redemption" of Southampton Pine Barrens Credits allows lot areas in the Town of Southampton to be reduced to a minimum of 20,000 square feet when PBCs are redeemed. Plan Section 6.4.2.2.2, Brookhaven total yield, allows lot areas in the

Town of Brookhaven to be reduced to 30,000 square feet in A1 RODs and 60,000 square feet in A2 RODs when PBCs are redeemed.

This amendment aims to promote and encourage the use of PBCs as a complement to land use development in the CGA and to further the preservation and protection of the Core, as it was intended in the Act and the Plan. The standard accounts for and accommodates the extra clearing that accompanies additional units allowed through redemption of PBCs. In such cases the clearing and open space standards in Figure 5-1 are applied based on the actual average lot size which results after PBCs are redeemed, rather than the base zoning lot size. Effectively, the redemption of PBCs increases the density on a ROD project site and in turn may require a reduction in lot sizes to an extent that would require more clearing (in order to render construction and make development feasible) than the amount allowed if the underlying zoning district (as of 1995) was applied. Absent this amendment a project may need a hardship waiver to clear more than allowed, which may discourage the redemption of PBCs. Overall, this amendment encourages the redemption of PBCs, in concert with the Plan, and supports compact, efficient, and orderly development in RODs in the CGA as it was envisioned in the Act and the Plan.

Because the 1995 SDGEIS analyzed potential impacts to land use, zoning and policy as a result of the use of PBCs in RODs, no further environmental review is necessary, as no change in the policy is proposed and subsequently no adverse impacts are expected as a result of the amendment. The amendment simply reiterates existing policy, Plan provisions, and the continued support of the use of PBCs as a complement to land use development in a compact, efficient, and orderly pattern.

*Standard 5.3.3.6.1.4 Environmental restoration*

This is a new standard which establishes that after a site has been revegetated following environmental restoration activity, the revegetated area shall be considered natural vegetation, not cleared or previously cleared, when determining if a project conforms with the vegetation clearance limit in Standard 5.3.3.6.1.

No adverse impacts are expected as a result of this amendment. The Plan and the Act encourage and support environmental restoration and identifying the restored area of a project site as natural area is consistent with the preservation of open space as defined in the Plan and with the goals and objectives of the Act. It also does not penalize the act of environmental restoration where it is important and advanced to protect public health and safety.

*Standard 5.3.3.6.1.5 Hardship requirement for relief of clearing limits*

This is a new standard that reiterates the existing hardship waiver requirement outlined in Section 57-0121(9) of the Act and notes its specific applicability to relief from the clearing requirements on individual lots. This is consistent with the Act, the Plan and current

practice. The amendment simply reiterates the requirements of the Act, provides greater certainty when a project does not conform and reduces ambiguity in the project review process. No adverse impacts are expected as a result of this amendment.

*Standard 5.3.3.6.1.6 Split Core/CGA parcels and clearing*

This is a new standard that specifically defines the current approach to calculating the clearing limits on a development project site that includes land in both the Core and CGA. This policy is generally stated in existing Section 5.3.3.6.1 where it says, to the extent that a portion of a site includes Core property and for the purpose of calculating the clearance limits, the site shall be construed to be the combined Core and CGA portions. This new standard clarifies that if Pine Barrens Credits have been issued on the Core portion of a project site, only the CGA acreage may be used to determine the amount of clearing allowed for the development project. The Core portion is effectively sterilized and no development activity involving the Core portion may occur including using the Core area portion to calculate or establish density or yield to determine clearing or sanitary flow. No adverse impacts are expected as a result of this amendment.

*Standard 5.3.3.6.1.7 Cleared sites*

This is a new standard that currently conflicts with the proposed amendment that adds new Standard 5.3.3.4.4, Reduction of Impervious Surfaces, and revised Standard 5.3.3.6.2, Open Space Requirement, Unfragmented Open Space and Habitat. It applies when open space is required on overcleared sites to bring a project site into conformance with the open space standard and Figure 5-1. Until now, it has been Commission practice that if a development project occurred on an “overcleared” site that predates the Plan, the clearing limit did not apply and there was no open space set aside required. Absent the amendment, “grandfathered” sites that are overcleared can be redeveloped in their entirety and no natural open space is required where it is not currently present.

New proposed Standard 5.3.3.4.4 and revised standard 5.3.3.6.2 require open space, including allowing revegetation of existing cleared areas to be preserved as open space, regardless of existing site conditions. This will ensure that development in the CGA continues to maintain its essential character. This amendment, among other environmental benefits, supports the CGA as designed in the Act and the Plan to serve as a buffer to the Core and to reduce edge effects on ecological communities in the Core/CGA interface.

Due to the conflicts and inconsistency with proposed Standards 5.3.3.4.4 and 5.3.3.6.2, standard 5.3.3.6.1.7 will either be removed or it will be re-written in the FGEIS to be consistent with other standards of the Plan provisions to support the intentions of the Act and the Plan.

#### *Section 5.3.3.6.2 Open space requirement, unfragmented open space and habitat*

This standard contains new and re-written language related to the previous standard with the same number. The standard contains a lengthy preamble to clearly explain the principles of conservation design and the background, purpose, and applicability of this standard. A handbook was prepared to assist with the implementation of this standard.

The foundation of this amendment is in the Act and in Volume 2 of the Plan where elements of this standard are discussed at length including, but not limited to, ecological principles of conservation design, ecological processes, edge effects, size of effective conservation reserve areas, shape, buffer zones, connectivity and population size of natural species for genetic variability. Volume 2, Chapter 5, Ecosystems Overview, expressed the importance of viable ecosystems to maintain ecological and evolutionary processes and to minimize disturbance to open space habitat in order to protect ecological communities in the Central Pine Barrens.

The amendments to the open space standard quantify not only the amount of clearing but also the amount of open space that is required to be set aside in a development project. One result of this addition will be a net increase in the extent of dedicated open space in the CGA in regard to parcels that are currently overcleared or cleared entirely where little to no existing natural vegetation remains. No significant adverse environmental impacts to land use and zoning will occur as a result of this amendment.

#### *Standard 5.3.3.6.5 Receiving entity and protection for open space areas*

This is an amendment to existing Plan Standard 5.3.3.9.1 which requires an application to specify the entity to which dedicated open space will be transferred. It is necessary to identify the grantee of open space and ensure they manage the protection, compliance and enforcement activity necessary for the area to remain in its present natural state in perpetuity and is protected in accordance with the recorded legal instrument.

No adverse impacts are expected as a result of this amendment. The amendment would provide the positive benefit of greater protection of open space areas and be a positive benefit to land use.

#### *Standard 5.3.3.6.6 Buffer delineations, covenants and conservation easements*

This is a renumbering of and clarification to the existing Plan Standard 5.3.3.4.2 that requires buffers to be delineated on site plans or other plans prepared for a project and requires covenants and conservation easements to be imposed to protect these areas as necessary. It is necessary to protect areas to remain natural including buffers on project sites to ensure they remain in their present state in perpetuity and are protected in accordance with the recorded legal instrument.

No new restrictions are imposed as a result of this standard and therefore, no adverse impacts are expected as a result of this amendment on land use, policy and zoning.

*Standard 5.3.3.6.7 Invasive plant species mitigation and Guideline 5.3.3.7.1 Invasive Species Mitigation*

These new amendments propose a new standard and guideline related to invasive species mitigation to promote the preservation and maintenance of higher quality habitats on development project sites. The amendments will result in the removal of non-indigenous vegetation on a project site, potentially allow native plant species to flourish and recolonize a site and allow existing habitat to improve or become enhanced over time. The self-heal approach allows passive restoration to occur on development project sites. In some cases, the area will be protected as open space as well.

The amendment encourages a restoration approach that seeks to utilize or reuse the native seed bank that may exist in a dormant state or in a site that has not been excessively excavated and physically disturbed.

The amendment facilitates the Plan's goal to preserve indigenous species that have adapted to regional growing conditions and the use of native species in landscaping since they, as opposed to non-indigenous species, require less management, maintenance, irrigation and applications of chemical compounds including fertilizer and herbicides.

No adverse impacts are expected as a result of this amendment to land use and policy for the reasons stated above. These amendments have no impact on zoning other than the three Towns of Brookhaven, Riverhead and Southampton will need to amend their zoning codes to incorporate these amendments if adopted by the Commission.

*Guideline 5.3.3.7.2 Bird conservation and protection*

This new guideline is an amendment to the Plan that aims to support awareness of and protection to bird species through the design of a development project. Research has demonstrated that significant avian and bat mortality is caused by the design and construction of physical elements that result in collisions with structures. Modest modifications in design elements could achieve reduced mortality to birds, both migratory and non-migratory, and also to bat species, to the greatest extent feasible. Although cost may be a factor in consideration of design features to reduce collisions, implementation of this new Guideline is required to "the greatest extent practicable." The applicability of this Guideline is limited to DRS, CRAs, and Assertions of Jurisdiction. Since 1995, there have been only 17 applications in this category of significant projects, which is less than one application per year in 23 years. This demonstrates the limited universe of projects potentially affected by this provision in the future. Nevertheless, no adverse environmental impacts are expected as a result of this amendment, especially as it promotes further protection of birds and bats.

#### *Standard 5.3.3.9.1 Dark sky compliance*

Dark skies initiatives and codes are locally and regionally accepted regulatory practice. This new standard is an amendment in the Plan that applies only to development projects that are not subject to local municipal review since the Towns in the Central Pine Barrens (Brookhaven, Riverhead and Southampton) have adopted zoning code regulations for dark skies protection. Adoption of this standard would ensure consistency in regard to dark skies requirements with other development projects, patterns, and designs in the region and ensures development is compatible with the long-term integrity of the Pine Barrens ecosystem.

The amendment indirectly supports the preservation of natural resources through reduced glare and other effects of nighttime lighting on natural habitat and developed areas in the region. It will indirectly protect ecological resources from excessive glare that might interfere with habitat, breeding and foraging activity and behavior of pine barrens flora and fauna. Its secondary effect is the preservation of energy resources through more efficient and effective targeted lighting design on a project site.

No adverse impacts on land use and zoning are expected as a result of this amendment. The Towns will be required to adopt this amendment; however, it is considered a ministerial amendment and has limited applicability. Only four percent or approximately seven projects out of a total of 163 that have come before the Commission since 1995 were not subject to municipal review. This includes school and library facilities and utility projects by Keyspan, LIPA and PSEGLI.

#### *Guideline 5.3.3.11.1 Tall structures and scenic resources*

This new guideline allows for Commission review of tall structures (structures 75 feet or greater in height) which have a greater potential to affect the scenic, aesthetic and cultural resources of the Central Pine Barrens. Structures under 75 feet in height would not be subject to this amendment. This Plan amendment applies only to public corporations and other projects not subject to local municipal review. The proposed amendment is consistent with Section 57-0121 of the Act which provides the foundation to protect resources, preserve and maintain the essential character of the pine barrens environment and ensure compact, efficient, and orderly development. It is not expected to result in any significant adverse environmental impacts.

### CHAPTER 6 AMENDMENTS AND POTENTIAL IMPACTS

The amendments to Chapter 6 include ministerial changes that codify current practice or clarify content or requirements of the Pine Barrens Credit Program. Other amendments that are more substantive are further examined and evaluated for potential adverse environmental impacts in this SDEIS. These are noted in the summary Figure 3-3.

**Figure 3-3: Summary List of Chapter 6 amendments and impacts**

<b>CHAPTER 6 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>	<b>IMPACT</b>
6.3 Allocation of Pine Barrens Credits	Memorialized Carmans River expansion, clarified date from which PBC allocation is computed and date affected by Carmans River Watershed expansion	No impact, Ministerial amendment
6.3.1 Method of allocation	Clarified date from which PBC allocation is computed and date affected by Carmans River Watershed expansion	No impact, Ministerial amendment
6.4.2.1 Brookhaven Pine Barrens Credit Program overview	Changed headings in section to add “As of Right” and “Non As of Right” redemptions	No impact, Ministerial amendment
6.4.2.2 Brookhaven “As of Right” Residential Overlay District specifications	Added term “As of Right” in heading and changed “may” to “shall” in reference to allowing PBCs in RODs	No impact, Ministerial amendment
6.4.2.2.4 Brookhaven criteria	Clarification of criteria	No impact
6.4.2.3 Innovative strategies for the redemption of Brookhaven Pine Barrens Credits	Word change from abbreviated “R” districts to “residential” districts	No impact, Ministerial amendment
6.4.2.4.1 Transfers from Hydrogeologic Zone 3 to Hydrogeologic Zone 6	Clarified location of Hydrogeologic Zone 6	No impact, Ministerial amendment
Figure 6-3: Brookhaven Residential Overlay District as of right receiving area map	Map title addition for clarification	No impact, Ministerial amendment
Figure 6-4: Riverhead as of right receiving area map - Area “A” Calverton	Map title addition for clarification	No impact
Figure 6-4 (p.2): Riverhead as of right receiving area map - Area “B” West Main Street	Map title addition for clarification	No impact. Riverhead amended receiving areas. Area “B” is no longer a Receiving Area, in exchange have Receiving Areas B through G
New Figure with new Riverhead Receiving Areas (no figure #)	New Figure Wading River and Riverhead Receiving Areas, B and C are new	No impact
Figure 6-5 (p2) Riverhead Receiving Area Parcels	Amended list of RAs to reflect new receiving area parcels	No impact
Figure 6-7: Southampton as of right receiving area map	Updates map	No impact, no substantive change Updates legend and shading

<b>CHAPTER 6 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>	<b>IMPACT</b>
Figure 6-7 (p.2): Southampton as of right receiving area map	Updates map	No impact, no substantive change Updates legend and shading
Figure 6-7 (p.3): Southampton as of right receiving area map	Updates map	No impact no substantive change Updates legend and shading
Figure 6-7 (p.4): Southampton as of right receiving area map	Updates map	No impact no substantive change Corrects legend and shading
Figure 6-7 (p.5): Southampton as of right receiving area map	Updates map	No impact no substantive change Updates legend and shading
6.4.5 Suffolk County Sanitary Code	Word edit	No impact, no substantive change
6.5.4 Intermunicipal redemptions of Pine Barrens Credits	New section Clarification of policy	No impact, Clearinghouse policy
6.5.5 Permanency of Pine Barrens Credit Redemptions	New section Confirmation of policy that PBC redemptions are not temporary	No impact. Permanent redemption, no returns of redeemed PBCs
6.5.6 Redemption of Pine Barrens Credits within the Core Preservation Area prohibited	New section Reiterating intent of the Act to redirect development from the Core and not retire PBCs in Core	No impact. Consistent with resolution in land use approval precedent
6.7.3 Detail of Step 1: Obtaining a Letter of Interpretation	Clarification of time period to review Letter of Interpretation	No impact. Provides notification and legal remedies.
6.7.3.4 Written appeal request timeframe	Clarification of review of appeal and hearing opportunity	No impact. Provides notification, legal remedies and certainty in hearing process.
6.7.3.5 Deciding the appeal	Clarification of policy after appeal is heard and issuance of final allocation	No impact. Provides timeframes for decision and final allocation to be issued.
6.7.4.3 Acceptable title report	Clarification of conservation easement acceptance	No impact. Clarifies title policy requirement.
6.7.6.6 Issuance of a full Pine Barrens Credit for certain roadfront parcels	Clarification of roadfront parcel allocation	No impact. Clarifies allocation to parcels on limited access roads.
6.7.6.8 Issuance of Pine Barrens Credits to a Parcel with a Land Use Violation	New section Provides clarity that violations of the Act must be resolved, where applicable, before PBCs can be issued	No impact. Confirms compliance and enforcement statute requirement to resolve violation prior to addressing new activity such as development or credit allocation requests on a parcel.



CHAPTER 6 SECTION AMENDMENT	SUMMARY OF AMENDMENT	IMPACT
6.7.6.9 Transactions involving Pine Barrens Credits	New section Clarifies numeric rounding figure in PBC transactions	No impact. Avoids issuance of fractional PBCs less than 0.01 that diminish PBC value are administratively unfeasible.

Specific amendments in Chapter 6 that were identified as non-ministerial and are further analyzed include:

- *Section 6.5.5 Permanency of Pine Barrens Credit Redemptions*
- *Section 6.5.6 Redemption of Pine Barrens Credits within the Core Preservation Area prohibited*
- *Section 6.7.6.8 Issuance of Pine Barrens Credits to a Parcel with a Land Use Violation*
- *Section 6.7.6.9 Transactions involving Pine Barrens Credits*
- *Figure 6-4 Riverhead Receiving Areas*

*Section 6.5.5 Permanency of Pine Barrens Credit Redemptions*

This new provision in the Plan confirms Commission policy that PBC redemptions are permanent and that PBCs cannot be reused once they have been redeemed. If the land use for which the PBC was redeemed ceases to exist, is demolished, or converted to another use, the PBC cannot be returned or refunded to the owner of the Credit.

No significant adverse environmental impacts will occur as a result of this amendment. Ensuring that no returned, duplicate use or repeated redemption of a PBC is allowed minimizes the potential adverse environmental impacts on land use, sanitary wastewater and other environmental subjects that may occur if a PBC is redeemed more than once. This is also consistent with the Plan GEIS which analyzed the potential environmental impacts of PBC uses and redemptions on the basis of a one-time, single use per PBC. Moreover, this amendment protects the integrity of PBC administration including tracking, maintaining and managing the use and redemption of Pine Barrens Credits and operations of the Credit Program. Ultimately, it protects the resources of the Core and CGA and results in no significant adverse environmental impacts.

*Section 6.5.6 Redemption of Pine Barrens Credits within the Core Preservation Area prohibited*

This new provision in the Plan is an amendment clarifying that the Core is designated as a preservation area. Development activity in the Core is prohibited. The Plan's goal was to redirect development activity from the Core. If a proposal were to redeem PBCs in the Core, it would be contrary to the intent of the Plan and the Act since the use of PBCs would increase land use density or intensity in the Core that is intended by statute and the Plan to

be preserved. Such increases may result in adverse environmental impacts on environmental resources including but not limited to clearing of natural vegetation and habitat loss and impacts on groundwater resources and infrastructure.

The Credit Program is designed to encourage the redemption of PBCs in the CGA in designated as-of right-receiving areas, in compactly developed areas such as hamlet centers, and outside the Central Pine Barrens. PBCs are encouraged to be used outside of the preservation area for additional density and increases in sanitary flow to conform to Suffolk County Department of Health Services standards. Furthermore, the Core is a sending not a receiving area for credits.

No adverse environmental impacts are expected on land use as a result of this amendment. Greater protection of the resources of the Core is expected as a result of this amendment.

#### *Section 6.7.6.8 Issuance of Pine Barrens Credits to a Parcel with a Land Use Violation*

This new provision in the Plan is an amendment that is ministerial in nature. It confirms the intent of the Act and the Plan that a land use violation on a parcel must be resolved prior to the issuance of PBCs. Pending violations and enforcement matters suspend review of other actions of the Commission until they are resolved. No adverse environmental impacts are expected on land use as a result of this amendment.

#### *Section 6.7.6.9 Transactions involving Pine Barrens Credits*

This new provision in the Plan is an amendment that is ministerial in nature. It codifies existing practice of rounding to the nearest one hundredth of a Pine Barrens Credit in transactions involving Pine Barrens Credits and ensures that no administratively unsupportable fractional credits can be created in segments smaller than hundredths. No adverse impacts are expected as a result of this minor Plan Amendment.

#### *Figure 6-4 Riverhead Receiving Areas*

This new figure is an update to an existing Figure 6-4 in the Plan that identifies new Receiving Areas in the Town of Riverhead. The new Receiving Areas are not in the Central Pine Barrens. They lie just outside the Central Pine Barrens on the eastern end of this region in the vicinity of Edwards Avenue, north and east of the CGA boundary. Where new Receiving Areas are identified, the Town has created opportunities to redeem Pine Barrens Credits. Figure 6-5 was also updated to reflect existing and new Receiving Area parcels in the Town of Riverhead.

Existing receiving areas in Riverhead are currently developed or are proposed to be developed with solar energy facilities. The Town maintains a minimum 1:1 sending to receiving area ratio in accordance with the Plan.

## **ZONING**

No amendments will adversely affect zoning and no recommendations are proposed to modify zoning districts in the Core or CGA. Zoning remains under the purview of the Towns. The only standard that relates to a project site's zoning district is the clearance limit listed in Figure 5-1. The amount of clearing permitted on a project site in the CGA is applied based on the zoning district in which the development project is situated.

The amendment to the "other" category in Figure 5-1 is proposed to include institutional land uses and sets the maximum clearing limit at 60% for the uses in that category, regardless of the zoning district in which an institutional use may be located. The change in Figure 5-1 to apply the zoning as of 1995 or current zoning, whichever is more protective of the environment, prevents the Plan from being less protective in areas where Towns have upzoned the land since 1995. Therefore, no adverse impacts will occur to zoning districts in the Central Pine Barrens as a result of the amendments.

### **D. SEQRA GEIS CRITERIA**

This section reviews the Plan Amendments in accordance with Sections 617.9(b)(5) and 617.10 of the SEQRA regulations. The Commission has determined that the amendments will not have significant adverse impacts on the environment. This determination was made by comparing the impacts that are anticipated to occur by the implementation of these amendments against the criteria contained in the SEQRA regulations.

The purpose of the Plan Amendments is in Section 57-0121(13) of the Act requiring the Plan to be re-examined every five years. Since 2005, after more than a decade of technical review, a set of amendments was presented in a Draft Scope adopted by the Commission on February 17, 2016 for the preparation of a SDGEIS.

Chapter 2 of this SDGEIS outlines the amendments to Chapters 4, 5 and 6 of the Plan. The amendments are largely ministerial or administrative in nature consisting of word edits or clarification and memorialization of terms and existing practices, policies and procedures based on past decisions and current activities of the Commission and the implementation of the Plan. New amendments that are more substantive or non-ministerial amendments are evaluated in terms of their significance pursuant to the SEQRA regulations. The amendments are protective of the resources of the Central Pine Barrens, as outlined in the Act, and reaffirm the Commission's commitment to support the goals and objectives of the Act. They provide certainty in review procedures and identify the application of provisions used in the review of land use development projects and in Credit Program processes. After an exhaustive review of the Plan, the amendments fulfill the Commission's directive pursuant to the Act to review and if appropriate make amendments to the Plan and update the GEIS.

The Plan Amendments apply to activities that are subject to Commission jurisdiction. For

example, amendments to Chapter 4, Review Procedures, apply to development projects defined as DRS, CRA and Assertions of Jurisdiction that are reviewed directly by the Commission. The amendments in Chapter 4 include new definitions such as tall structures and self-heal restoration as well as ministerial corrections to existing provisions and text, and clarifications of existing policy. Amendments in Chapter 5, Standards and Guidelines include ministerial and non-ministerial changes that may affect development projects in the Compatible Growth Area. Amendments in Chapter 6, Pine Barrens Credit Program, are ministerial, process-related and apply to the review of applications for and the issuance of Pine Barrens Credits.

## **Alternatives**

### *No Action*

The Alternatives analysis includes an assessment of a No Action Alternative and Ministerial Amendments Alternative. In the No Action Alternative, no amendments would be adopted. Implementation of the Plan would continue as it is at the present time. Existing practices would continue and determinations based on past decisions and codified by amendments, would not appear as amendments to the Plan in the No Action Alternative. New provisions in the Plan as a result of amendments, such as the new DRS definitions would not be adopted and implemented. If new provisions are not advanced, it may leave a void in protecting and ensuring the CGA continues to serve as an ecological boundary to the Core while accommodating compact, efficient, and orderly development and resources in the CGA, as directed by the Act.

### *Ministerial Amendments*

The Ministerial Amendments Alternative would advance those amendments identified as ministerial including minor word and term edits, administrative changes to and combinations of certain sections and other minor revisions with no consequences or adverse environmental impacts. More substantive amendments would not be advanced in the Ministerial Amendments Alternative. The Ministerial Amendments Alternative would allow the advancement of administrative or “housekeeping” items to provide greater clarity in the Plan’s implementation.

The amendments would not result in significant adverse environmental impacts on land use in the Central Pine Barrens. Due to the generic nature of the GEIS and its focus on the entire Central Pine Barrens region, site-specific impacts of development projects and other activities regulated by the Plan are not fully addressed in the GEIS. Site-specific SEQRA analyses continue to be required.

There are no reasonably related long-term, short-term, direct, indirect and cumulative impacts as a result of the amendments or that are dependent on the amendments. The amendments include changes to the Plan that are generally ministerial or administrative in

nature, support past and current practice, policy, and decisions made by the Commission and are consistent with and continue the goals and objectives of the Act. Amendments that are more substantive were evaluated as they relate to the 1995 SDGEIS and Section 617.9(b)(5) of the SEQRA regulations. No significant adverse environmental impacts were identified in the process.

### **Long-term**

In the long-term, the amendments will result in greater clarity when the Plan is applied. It solidifies past practices and protects natural resources in the Central Pine Barrens. The amendments process revealed that some existing Plan provisions were ambiguous or lacked quantifiable measures for development projects and in the review and guidance to applicants to demonstrate conformance with the Plan. The amendments refine provisions to address current practice while supporting the advancement of development in the CGA over the long-term in a compact, efficient and orderly pattern in accordance with the goals and objectives of the Act.

### **Short-term**

In the short-term, development projects will continue to be reviewed and processed with respect to their specific sets of circumstances. An applicant may seek a hardship waiver for a development project that does not conform with the Standards and Guidelines, pursuant to Section 57-0123(3) of the Act. Amendments to definitions of Developments of Regional Significance such as projects that propose to create surface water ponds greater than three acres may require some development projects to come under Commission jurisdiction where not required under the current Plan. In such cases, submission of a Development of Regional Significance application is required and is subject to Commission review and decision. An applicant with a DRS level project that does not conform with Plan Standards and Guidelines may revise their project to conform or may apply to the Commission for a hardship waiver.

### ***Irreversible and Irretrievable Impacts***

Minimal impacts may occur in regard to the irreversible and irretrievable commitment of resources due to the continued acquisition of Core property and funds redirected to acquire land in the Core and the potential continuing future additions of land to the Central Pine Barrens. Towns that administer Community Preservation Funds and other land acquisition programs may provide additional government resources to acquire land in the Core, reducing the irreversible and irretrievable commitment of resources. As non-profit, non-government organizations fund the preservation of environmentally-significant vacant private Core land and other resources in the region, their actions will lessen the irreversible and irretrievable commitment of resources.

### ***Growth Inducing Impacts***

The Plan Amendments will have no growth inducing impacts and will not cause any adverse impacts by creating a material demand for other actions. The Amendments will continue to allow appropriate growth consistent with the natural resources goals pursuant to Section 57-0121 of the Act. Compatible development will continue on undeveloped sites and redevelopment will occur. The amendments will enhance the protection of resources and assets in the Central Pine Barrens, as per the statute.

### ***Energy and Solid Waste***

No major change in the use of either the quantity or type of energy consumed will occur under the proposal. The amendments that include a dark skies standard may result in a beneficial reduction in energy resources consumed due to the installation of more efficient lighting designs and fixtures. This standard will also indirectly protect ecological resources from excessive nighttime glare that may interfere with habitat, breeding and foraging activity and the behavior of pine barrens flora and fauna.

No increase in solid waste production will occur since this is not applicable to the Amendments. Further, the Plan Amendments will not cause a change in solid waste management procedures. No inconsistency will occur with State or local solid waste management plans.

### ***Agriculture, Recreational and Open Space Resources***

No adverse impacts will occur to agricultural resources as a result of the Plan Amendments. The Plan and Section 57-0121(3) of the Act promote and support compatible agricultural, horticultural and open space recreational uses within the framework of maintaining a Pine Barrens environment. Existing agricultural activities may continue and their future protection and that of agricultural resources in general, will be supported and enforced through agricultural reserve easements. When redevelopment occurs on a site used for agriculture, the new open space standard requires protection of a portion of the site as an agricultural reserve. This amendment aims to preserve the essential character of the land use, agricultural resource, historic and culturally important agricultural activities in the region. As a result, the region may experience a net benefit of protected agricultural land when redevelopment occurs, as compared to the current practice where the Plan does not require an agricultural reserve when the conversion from agricultural to non-agricultural use occurs. This practice has resulted in a net loss of agricultural uses and resources in the region. Development as defined in the Act involving “new” agricultural uses in the CGA must conform with Plan standards. The term “new” in this reference applies to development activity, as defined in the Act, including but not limited to clearing, excavation, or the material alteration of grade or vegetation. See the definitions in Section 57-0107(13) of the Act.

No adverse impacts or substantial change in the use or intensity of use of land including

agricultural, open space or recreational resources, or in its capacity to support existing uses, will occur if the Amendments are adopted. A net increase in the protection of agricultural uses, open space or recreational resources may occur since the open space standard requires area to be set aside in a development project regardless of a site's existing condition. This is expected to occur on sites that are presently overcleared or overdeveloped or sites with extensive paved or developed areas. This amendment supports the statute in ensuring the preservation of pine barrens resources, discouraging piecemeal and scattered development and encouraging compatible development, pursuant to Section 57-0121(4) of the Act.

### ***Land Acquisitions***

No adverse impacts will occur involving public acquisitions of land or interests in land or funding for non-farm development on lands used in agricultural protection and unique and irreplaceable agricultural lands within agricultural districts as specified in the Section 617.9(b)(5)(g) of the SEQRA regulations. Section 57-0121.6(g) of the Act specifically ensures the identification of land suitable for agricultural use and necessary and appropriate strategies to protect land capable of agricultural production. Agricultural production and associated uses continue to be encouraged in the region while protecting the pine barrens environment.

### ***Water Resources***

The majority of the Central Pine Barrens is in Groundwater Management Zone III, which contains a deep-recharge aquifer. Groundwater is the sole source of drinking water for Long Island. In accordance with Section 617.9(b)(5)(h) of the SEQRA regulations and Section 57-0121(1) of the Act, the primary resources for which the Plan was designed to preserve are pine barrens ecology and groundwater resources, as per in Section 57-0121(1) of the Act. The Plan Amendments are consistent with the goals of other adopted plans to preserve groundwater resources such as the Suffolk County Comprehensive Water Resources Management Plan and other regional water resources protection initiatives.

The Amendments ensure open space is provided in development projects which allows for continued aquifer recharge on undeveloped natural land. This requirement also reduces impacts of pollution, contamination of water resources, stormwater runoff and erosion; protects plant and wildlife habitat and preserves the quality of groundwater, which is as noted the sole source of drinking water. The Amendments provide greater protection of the natural resources of the Central Pine Barrens. Therefore, no adverse impacts on these resources will occur as a result of the Plan Amendments.

The Amendments will not result in adverse impacts on and were found to be consistent with the Statewide coastal policies outlined by the New York State Department of State Coastal Management Program. Areas within the Central Pine Barrens fall within the New York State Department of State (NYS DOS) mapped Coastal Area Boundary which extends to the watershed and headwaters of the Peconic River in the Towns of Brookhaven, Riverhead, and Southampton; the Carmans River in hamlets such as Brookhaven, Yaphank

and Middle Island in the Town of Brookhaven and the coastline of Peconic Bay on the boundary of the Core in the Red Creek area of Hampton Bays in the Town of Southampton. Site-specific projects that occur in the mapped boundary area shall continue to be reviewed in accordance with the requirements of SEQRA and Article 42, the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. No adverse impacts will occur, as a result of the Amendments, directly or indirectly to waterfront areas, coastal boundary area or surface water dependent uses. Development projects in the mapped boundary will still be subject to a determination of consistency with the State's coastal area policies. Agencies that approve or permit projects in the boundary which are receiving State or Federal funding are required to coordinate with NYSDOS and confirm consistency in their SEQRA record.

#### *Review of SEQRA Criteria for Determining Significance*

The Plan applies to the area under the jurisdiction of the Commission which includes the Compatible Growth Area and the Core Preservation of the Central Pine Barrens as defined in the Long Island Pine Barrens Protection Act (NYS ECL Article 57). The Plan Amendments are classified as a Type I Action pursuant to the State Environmental Quality Review Act (SEQRA). Section 617.7(c) of the SEQRA regulations lists criteria for determining significance in a Type I Action. An elaboration of the impacts of the amendments as per the thresholds outlined in the SEQRA regulations is provided in this section.

The Amendments have their origins in the statute specifically one or more subsections of Section 57-0121 of the Act. No adverse impacts were identified that were not previously examined or considered in the Plan DGEIS or SDGEIS. No site-specific parcels are targeted by the Plan Amendments that would affect a particular development project. No rezoning action is proposed. Any substantial changes proposed are consistent with existing practice, policy, actions of the Commission and the goals and objectives of the Act.

There are no actions associated with the amendments that will adversely affect groundwater or surface water quality or quantity. Groundwater quality will continue to be protected through the implementation of Guideline 5.3.3.1.5, Nitrate-nitrogen, that will be applied to projects that are DRS, CRA or Assertions of Jurisdiction. The amendments continue to support and enhance the protection of groundwater resources, a primary goal of the Act. This is strengthened by the amendments to Chapter 4, Definition of a Development of Regional Significance that will require Commission review and approval of development projects that expose groundwater. Commission review of DRS projects involving water table exposure ensures water resources are not impacted by a development proposal including but not limited to, exposure to airborne contamination, stormwater runoff, and public safety and management of water features.

Surface waters will continue to be protected through the implementation of Standard 5.3.3.4.1, Nondisturbance buffers. The Plan amendments extend protection to those wetlands not subject to other regulations. Wetlands and surface waters, such as vernal



ponds and their adjacent areas, will be protected by requiring the review of projects by the Commission that are not reviewed by other agencies and by ensuring the protection of wetland habitat by establishing buffers or other protection measures.

### ***Air Quality, Traffic, Solid Waste, Recharge and Stormwater***

No adverse environmental impacts will occur to existing air quality, ground or surface water quality or quantity, traffic or noise levels. There are no actions that involve modifications to projects that would affect air quality.

There will be no significant adverse traffic impacts as a result of the amendments. No increases in land use density or intensity are proposed or changes to existing transportation networks or resources that will result in traffic impacts. Traffic analyses will be required if a site-specific project is reviewed in the SEQRA process and potential traffic impacts are identified.

No solid waste will be produced by the Amendments. No increase in solid waste production will occur. No substantial increase in potential for erosion, flooding, leaching or drainage problems will occur as a result of the Amendments. Stormwater recharge will continue to be controlled through the implementation of Standard 5.3.3.5.1 and Guidelines related to natural recharge, drainage, and ponds will continue to protect soil resources and minimize erosion. No disturbance to slopes, excavation, or grading activities will occur and therefore, no increase in the potential for erosion, flooding, leaching or drainage problems. Protection of steep slopes and erosion control and stabilization practices will continue to be implemented through existing Plan provisions outlined in Section 5.3.3.8 Soils.

The Plan Amendments do not involve the creation of a hazard to human health. No adverse impacts on human health will occur as a result of the Plan Amendments. The Plan is expected to result in beneficial impacts by, as the Act requires, preserving and maintaining the essential character of the pine barrens environment (e.g., filling in regulatory gaps where they exist such as dark skies lighting requirements when other agency review is not present), protecting quality of surface and groundwaters (e.g., wetland habitat protection where other oversight is not present), discouraging piecemeal and scattered development and encouraging appropriate patterns of compatible residential, commercial, agricultural, and industrial development.

No substantial change in the use or intensity of use of the land will occur as a result of the amendments. As defined in the new Standard 5.3.3.4.4 Reduction of Impervious surfaces, development project sites that propose new or expanded development that have been previously cleared and developed with impervious surfaces shall reduce previously cleared areas and conform to the open space standard. Implementation of this standard will continue to achieve the goals and objectives of the Act, outlined in Section 57-0121(4)(a) of the Act, to preserve and maintain the essential character of the existing Pine Barrens environment, including plant and animal species indigenous thereto and habitats therefor. No adverse impacts are expected as a result of Standard 5.3.3.4.4.

## *Ecological Resources*

The Plan Amendments aim to control and manage invasive species in the Central Pine Barrens through the implementation of the new Standard 5.3.3.6.7, Invasive plant species mitigation, and the new Guideline 5.3.3.6.7.1, Invasive Species Mitigation. The Amendments originate in provisions of the statute, specifically Section 57-0121(4) of the Act, and support the preservation of species and ecosystems indigenous to the region, where feasible. The standard involving mapping invasive species in the open space set aside on a project site has minimal application since the open space area must be 10 acres or more. The guideline is advisory except in limited circumstances for DRS, CRA and assertions of jurisdiction, which tend to be larger scale projects. Only 17 projects in this category have come to the Commission since 1995. It is not required, only suggested, that an applicant may propose to eradicate invasive plants as mitigation in a development project. No adverse impacts are expected as a result of the amendments which are intended to improve the quality of degraded habitats in the region, where applicable, and support the proliferation and protection of native species.

The Plan Amendments provide greater protection to natural habitats. Requiring the more protective clearing limit to apply, 1995 or current zoning, and the open space standard will provide greater protection to natural habitats. No physical disturbance or construction activity is proposed. No adverse impacts to natural habitat will occur. The amendments do not result in significant adverse environmental impacts since they do not involve clearing or the removal or destruction of significant quantities of vegetation or fauna, or the substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on significant habitat areas, substantial adverse impacts on a rare, threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources.

Development projects must conform with the clearing and open space standards as quantified in Figure 5-1, Clearance and Open Space Standards, which limit the removal of natural vegetation and habitat. The amendments to Figure 5-1 provide clarity in specifying the amount of open space required to be set aside on a project site, alongside the inverse amount of clearing allowed on a development project site. The section identified as “All other zoning categories,” applicable to state or public corporations and undefined zoning lot sizes and parcels, permits a maximum clearing percentage of 60% and provides flexibility to development projects with a public benefit component such as schools, libraries, and municipal facilities. The potential clearing for public corporations and other uses in this category is not expected to result in significant adverse impacts on natural resources.

No disturbance or removal of habitat will occur to species listed by New York State as endangered and threatened nor Federally-listed species of flora or fauna protected by the Endangered Species Act. No additional permitting or regulatory review is proposed or is required. The proposed amendment continues the Plan’s current practice to require conformance with measures determined by the appropriate state, county or local government agency to protect these species.

Avian species are protected by more specific measures to reduce bird collisions with structures through the implementation of a new Guideline 5.3.3.7.2 Bird conservation and protection. The new Guideline will indirectly and beneficially protect and minimize mortality of individual bats and bat species that are known to collide with structures. Some bat species are State and Federally-listed as protected. This amendment is applicable to projects defined as DRS, CRA, and Assertions of Jurisdiction. The Guideline is qualified to be implemented “to the greatest extent practicable;” therefore, it will have limited applicability. No adverse impacts to natural resources will occur as a result of the Plan Amendments as it aims to be more protective of resources in the region, which is consistent with a primary objective of the Act to protect pine barrens ecosystems and natural resources.

The Central Suffolk Pine Barrens is a Critical Environmental Area (CEA) designated pursuant to 6 NYCRR Section 617.14(g) by Suffolk County in 1988. No significant adverse impacts are expected to occur in the CEA or to the quality or quantity of the resource as a result of the Amendments. The proposed Amendments further promote and enhance the protection of the natural resources contained in the CEA.

The Plan Amendments support identifying and preserving historic and cultural resources represented in the Central Pine Barrens. No construction is proposed. No physical impacts including disturbance or destruction will occur on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places as a result of the amendments. Since no Natural or National Landmarks exist in the region, none will be impacted.

### ***Cultural, Historic and Archaeological Resources***

The amendments will not result in the impairment of the character or quality of important historical, archaeological, architectural or aesthetic resources or of existing community or neighborhood character. Hardship Waiver applications are coordinated with the State Historic Preservation Office (SHPO) of the New York State Office of Parks, Recreation, and Historic Preservation in order to identify potential impacts to and the impairment of the character or quality of important historic, archaeological resources, pursuant to Section 617.7(c) of the SEQRA regulations. No adverse impacts are expected on historic, archaeological, or cultural resources as a result of the amendments.

The Project will not result in a material conflict with a community’s current plans or goals as officially approved or adopted. When prepared and adopted by an agency, hamlet area or community plans, master plans, or comprehensive plans must not result in adverse impacts on the Plan. Plans in the region must identify and evaluate any potential adverse impacts on provisions of the Plan and avoid impacts or develop mitigation to minimize impacts on the Plan and conform with its provisions in accordance with Section 57-0123(3)(a) of the Act. The Towns in the Central Pine Barrens have adopted comprehensive plans and hamlet studies, and no unmitigated impacts on the Plan have been identified as a result of adopted

plans. No adverse impacts are expected on the Plan or on existing adopted plans in the region as a result of the amendments. The Towns of Brookhaven, Riverhead and Southampton are required by Section 57-0123(13) of the Act to adopt and amend as necessary land use and zoning regulations once the amendments are adopted by the Commission. No significant adverse impacts on zoning regulations are expected as a result of the Plan Amendments. The amendments are more protective of the region's resources and therefore the Town's resources.

### ***Other Regulatory Authorities***

The Amendments are consistent with existing regulations implemented by other agencies including town codes that regulate uses and activities on property in the region. The amendments aim to fill gaps in the environmental review of a project not subject to local municipal jurisdiction such as a utility or infrastructure project or other public corporation projects. Projects not subject to local municipal jurisdiction will be subject to proposed standards. These include dark skies protection and nondisturbance buffers to protect unmapped and unregulated wetlands such as vernal ponds that may be identified on a development project site. The amendments support compact, efficient, and orderly development and the preservation of the essential character, pursuant to the goals and objectives outlined in Section 57-0121 of the Act.

### ***Preservation of Resources***

The Amendments support, directly and indirectly, the preservation of the quality of resources including natural habitats, surface and ground water quality, essential character and viewsheds in the Central Pine Barrens. It is well documented that the preservation of resources in a community such as open space, farmland and water quality contribute to stable and growing property values, sustainability and foster the economic benefits of tourism, real estate and other monetized or quantifiable business sectors. The region benefits from local, County and State preservation programs that provide financial resources for land preservation and related efforts. Preservation efforts including land acquisitions and funding programs that protect water quality continue to support and sustain the region's economic viability and business community and quality of life for resident and visitor populations.

### ***Recreational and Agricultural Resources***

No significant change, relocation or disturbance to existing recreational uses, hiking trails or open space will occur as a result of the Amendments. New hiking trails and connections may increase as open space is required in development projects in the CGA (e.g., open space in cluster subdivisions or redevelopment projects). No adverse impacts or substantial change in the use or intensity of use of land, including agricultural, open space or recreational resources, or in its capacity to support existing uses will occur under the amendments. A net increase in the amount of agricultural, open space or recreational resources may occur since the open space standard requires area to be set aside in a

development project regardless of the site's existing condition. This will continue to achieve the goals and objectives of the Act and ensure resources remain protected while development is accommodated. It is expected that a developer can adhere to the requirements while not being burdened by the amendments. When a development project occurs on land that is overcleared, "self heal" restoration may be utilized for conformance with the open space standard. This will support preservation of the region's resources while discouraging piecemeal and scattered development and encouraging compatible development in the CGA, pursuant to Section 57-0121(4) of the Act.

As a threshold outlined in the SEQRA regulations, the amendments will not encourage or attract a large number of people to a place for more than a few days, compared to the number of people attracted to the region at the present time.

The Plan Amendments will not result in any significant irreversible and irretrievable commitment of resources due to the acquisition of Core property and funds directed to acquire land in the Core, as well as potential future additions of land to the Central Pine Barrens. Towns that implement the Community Preservation Fund (CPF) may provide financial resources to acquire land and non-profit, non-government organization funding may provide additional mechanisms to preserve environmentally-significant Core land and natural resources. It is well established, researched, and reported in regional planning studies and comprehensive plans, and as stated in the Suffolk County Comprehensive Water Resources Management Plan, "Preservation of open space is the most effective way to protect ground and surface water quality from a water resources management perspective" (SCDHS, 2015), which is also a key goal of the Act. As a result, continued acquisition and preservation obviates land use development related impacts including traffic, loss of natural resources and character, infrastructure expansions, extensions of utilities, sewage systems, and roads, and the need for additional community facilities and public services including schools, fire districts, and libraries.

### *Cumulative Impacts*

The Plan Amendments will not cause any significant adverse cumulative environmental impacts and no significant adverse synergistic effects will occur including the effects of two or more of the Project elements when considered together. Amendments that are more substantive were assessed in accordance with the SEQRA criteria for determining significance.

Direct beneficial impacts that will occur as a result of the Plan Amendments include greater protection of the resources of the Central Pine Barrens through the planning and preservation of open space on development project sites, invasive species control, construction of bird-safe structures, reduced nighttime lighting, and other planned features and processes that are expected to avoid adverse impacts. The cumulative impacts of the amendments will be beneficial to the region's resources and are more protective of resources without causing significant adverse impacts on economic development opportunities.

As outlined in the SEQRA regulations, when the amendments are assessed in connection with its setting, its probability of occurrence, its duration, its irreversibility, its geographic scope, its magnitude, and the number of people affected, no adverse impacts occur as a result of the amendments. The amendments are consistent with protecting the setting, essential character and other resources of the Central Pine Barrens. They aim to continue to accommodate development in the CGA while ensuring no adverse impacts occur on the region's resources.

An assessment of the Plan amendments relative to their geographic scope and number of people affected by them reaffirms that the Plan Standards and Guidelines continue to apply to development projects in the CGA. Typically, "new" development projects occur on privately-owned, unprotected and developable land. Amendments in Chapters 4 and 5 involve new provisions that expand Commission jurisdiction over certain types of development projects and activities that may widen the Commission's review authority over these projects. The new provisions have limited applicability. For instance, in a review of past projects, only seven (7) out of 166 were utility and public corporation projects that did not involve review by local municipal agencies. Certain changes to standards and guidelines apply only to DRS, CRA and Assertion of jurisdiction level projects.

Amendments to Chapter 6, Pine Barrens Credit Program, apply to privately-owned land in the Core Preservation Area. Clarity and certainty are offered in the Credit Appeal process including credit allocations. Chapter 6 outlines procedures related to activities involving Residential Overlay Districts or Receiving Areas in the three Towns. Where the amendments apply to a project, the Commission's policies will be more protective of the Central Pine Barrens resources, as opposed to less protective, resulting in no significant adverse environmental impacts. The amendments aim to continue to produce compact, efficient, and orderly development in the region, as specified in the Act. The land use and Credit Program were designed to work in coordination to achieve the vision of the Act and the Plan. The continued protection of the Core facilitates the creation of an unfragmented Core area, as envisioned in the Act; prohibits development in the Core; employs a transfer of development rights program to compensate landowners in the Core; and maintains the essential character of the CGA through the implementation of standards and guidelines to direct the pattern of development in a compact, efficient and orderly manner in the Central Pine Barrens.

The significance of the amendments as it relates to their magnitude reveals that although the amendments apply to the entire Central Pine Barrens, they are mainly ministerial in nature and provide clarification or codify existing policies and practices implemented after the initial adoption of the Plan in 1995. The magnitude of Amendments is not at a scale to produce significant adverse environmental impacts due to their largely ministerial nature. Where new amendments are proposed including new sections or subsections of existing sections, standards or guidelines, the analysis of potential impacts of the Plan Amendments reveals no significant adverse environmental impacts are expected as a result of the adoption of Plan Amendments.

## **E. MITIGATION MEASURES**

Because the Plan focuses on environmental protection, many general mitigation measures have been incorporated into the planning process in order to minimize environmental impacts in the Central Pine Barrens Area.

The Guidelines outlined in Chapter 5 have limited applicability in land use development projects that occur in the CGA and apply only to projects the Commission has direct jurisdiction to review such as Assertions of Jurisdiction, CRAs and DRS projects. Otherwise, Guidelines are advisory for reviewing agencies to apply in CGA development projects.

The amendments are substantially ministerial in nature and aim to provide clarity in the review and application processes. The substance of the standards for land use development projects is essentially unchanged and for the most part the Amendments merely reflect past and current practice, policies and decisions established by the Commission since the inception of the Act in 1993 and adoption of the Plan in 1995. The statute informs the Plan's jurisdictional authority. The Act and Plan explain that the CGA was designed to accommodate compact, efficient and orderly development while continuing to protect the region's essential character and representative resources. The policies of the Commission and decisions that have been made since its origin reflect the Act's legislative direction. Through its precedential history, the Commission has successfully established its jurisdictional authority and implemented the vision set forth in the broad but well defined goals and objectives of the Act. The Plan and its amendments originate in the statute. The Commission will continue, as directed by the Act, to examine the Plan and update it over time to ensure its effectiveness in fulfilling its State-legislative oversight and purpose in the pine barrens.

**A. INTRODUCTION**

This chapter reviews the goals and objectives for ecological resources in the Central Pine Barrens. It discusses the proposed Plan Amendments and identifies the potential impacts, if any, that may occur to ecological resources in the Core Preservation Area and the Compatible Growth Area (CGA) of the Central Pine Barrens, which may result from their adoption and implementation.

Ecological resources in the Central Pine Barrens were identified in Volume 2 of the Plan adopted in 1995. The diverse upland and wetland ecological community types described in the Plan include, but are not limited to, a complex mosaic of terrestrial habitats including pitch pine oak heath woodlands and variations of this community type, successional old fields and shrublands, and freshwater and tidal wetlands, coastal plain ponds, bogs, streams, and swamps. Within the unique and extensive ecological communities of the Central Pine Barrens there are occurrences of rare, threatened and endangered species of flora and fauna. The Central Pine Barrens harbors large concentrations of rare pine barrens natural communities and species that are not found elsewhere in New York State. Agricultural and other human-created ecological communities, defined by Edinger, et. al. (2014), are also present in the region's landscape.

The amendments continue the implementation of the Act and the Plan to protect, preserve and enhance the functional integrity of pine barrens ecological resources including plant and animal populations and communities thereof. In order to maintain functional, viable ecosystems in perpetuity, it is essential to maintain ecological and evolutionary processes such as natural disturbance regimes (e.g., fire in the pine barrens), hydrological processes, nutrient cycles, genetic selection and biotic interactions. Land acquisition in the Core and land use development in the CGA, support the preservation of representative habitats and ecological communities indigenous to the region. The Plan Amendments further these efforts. For example, amendments regarding conservation design and self-heal restoration encourage patterns of compact, efficient, and orderly development and continue to foster the preservation and protection of natural resources in the CGA.

**B. ECOLOGICAL RESOURCES****1994 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS), 1995 SUPPLEMENTAL DGEIS, AND FINDINGS STATEMENT**

The SEQRA record characterizes the Central Pine Barrens as an area of unusual biodiversity and statewide ecological significance. The Plan has had a beneficial impact on



ecological resources, as well as on plant and animal biodiversity, and it continues to provide oversight of existing developed areas within the Core along with private, vacant and unprotected land. The Core was designed to sustain its ecological communities and resources through habitat protection with emphasis on its unique natural communities, as well as rare, threatened or endangered species which are endemic to the Central Pine Barrens system. The design of the Core allows ecological and evolutionary processes to continue and facilitates protection and enhancement of ecological communities through implementation of appropriate management procedures for the protection of resources. The Core's design likewise provides connectivity of natural communities and species populations, thus protecting against interference with the movement of resident or migratory wildlife species.

The overall impact of the Plan on the ecology of the entire Central Pine Barrens region was expected to be beneficial and these positive effects continue today. It was anticipated that the potential impacts on ecological resources due to the redemption of Pine Barrens Credits (PBCs) in areas outside of the Core may represent a slight incremental increase in development of the CGA and areas outside the Central Pine Barrens over those impacts which could have occurred under the "No Action" alternative. The SEQRA record analyzed potential impacts as a result of PBC development transfers outside of the Core on resources including, but not limited to, school districts, vegetation and open space, and water. Furthermore, the Standards and Guidelines for Land Use were designed to ensure potential impacts to ecological resources in the CGA are minimized. Recommendations for the use of clustering and preservation of vegetation also help to further reduce the potential impacts of development in the CGA and reduce habitat fragmentation.

Implementation of the Plan continues to minimize impacts on wetlands and their associated flora and fauna by requiring adherence to all applicable local and state regulations. The Plan contains Standards and Guidelines for Land Use that require an applicant to conform with environmental regulations implemented by other agencies including the NYSDEC and Suffolk County Department of Health Services. When such regulations differ, the Plan provides that the more restrictive regulations shall govern. The Standards require, for example, that stormwater be recharged on site which mitigates impacts to ecological resources within wetland areas by reducing runoff, pollution and degradation thereto. The Act's goals to protect natural resources, including water quality and ecological resources, is the overarching theme of the Standards and Guidelines for Land Use and implementation.

#### *CORE PRESERVATION AREA IMPACTS*

Preservation and protection of resources in the Core was identified as the greatest positive impact in the 1995 DGEIS. The Pine Barrens Credit Program functions in concert with the land acquisition and public lands management programs to protect the pine barrens ecosystem from new development. Public land managers also strive to restore damaged lands and resources in the Core and to manage publicly protected areas in a manner that ensures ecosystem, water quality, and recreational sustainability.

It was envisioned that the protection of public lands would be enhanced through the Law Enforcement Council which continues to readily accomplish this goal by actively pursuing land use violations in the pine barrens such as illegal dumping and ATV use. The 1995 GEIS also envisioned a natural resources management approach that included inventories, monitoring, applied research, and habitat management and restoration which would be greatly enhanced through the coordinated efforts of the Protected Lands Council which consists of public land owners and managers. Stewardship of lands held in the public trust is also emphasized as a major responsibility. It includes ecological management, establishing opportunities for coordinated passive and active recreational activities, maintenance of facilities, and ultimately protection of conservation lands and the protection of pine barrens resources.

Impacts to ecological resources from development in the Core as a result of hardship waivers were anticipated to be minimal, since it was expected they would be limited in occurrence, and the development of residential roadfront exemption list lots were mainly infill lots within existing developed areas. In the cases of hardship waivers, the Commission may apply, at its discretion, the same Standards and Guidelines for Land Use which are applied in the CGA.

#### *NON-CORE IMPACTS*

The SDGEIS concluded that the implementation of the Plan would result in minor incremental negative impacts to terrestrial ecological resources of the non-Core lands with the overall objective in the CGA continuing to be facilitating a pattern of compact, efficient, and orderly development. Aquatic ecosystems would remain protected through existing statutory programs, which the Plan explicitly reaffirmed.

The Standards and Guidelines in the Plan continue to mitigate the effects of denser development by limiting clearing of natural vegetation, protecting surface waters, requiring contiguity of open space, limiting the use of nonnative plants, protecting endangered species habitats, and protecting steep slopes, among other beneficial applications.

The 1995 GEIS concluded that as a result of the transfer of development rights (TDR) from the Core, more naturally vegetated land in the non-Core areas would be developed than would be the case under existing zoning. Therefore, some habitat would be lost, fragmented or disturbed. Continued implementation of the Plan results in the irretrievable commitment of resources as naturally vegetated land is converted to developed areas in the CGA, accompanied by a minor loss of less critical ecological resources. Generally, however, it is expected that the resources that would be lost in the non-Core areas as a result of the Plan consist of more common terrestrial communities. Nevertheless, without the Plan, the loss of ecological resources would be expected to be significantly greater in the non-Core areas since the restrictions on site design, configuration, and the protection of resources would not have been implemented without the Plan's adoption.

## C. REGULATORY CONTEXT

Standards in the Plan reiterate and support the environmental regulatory requirements of other agencies such as the New York State Department of Environmental Conservation (NYSDEC) and Suffolk County Department of Health Services. Environmental regulations implemented by the Plan that apply to the protection of ecological resources, plants, animals and their habitats in the Central Pine Barrens include but are not limited to:

- NYSDEC Article 9 Lands and Forests
- NYSDEC Article 11, Title 5 Fish and Wildlife (Endangered Species)
- NYSDEC Article 15, Title 5 Protection of Water
- NYSDEC Article 15, Title 27 Wild, Scenic and Recreational Rivers
- NYSDEC Article 24 Freshwater Wetlands
- NYSDEC Article 25 Tidal Wetlands

### *NYSDEC ARTICLE 11 NEW YORK STATE - ENDANGERED SPECIES (ARTICLE 11, 6 NYCRR PART 182)*

This program is authorized pursuant to Article 11, Title 5 of the New York State Environmental Conservation Law. It prohibits the taking, importation, transportation, possession or sale of any endangered or threatened species of fish, shellfish, crustacean or wildlife, unless formally authorized via a license or permit. The New York State Department of Environmental Conservation is the agency authorized to implement the statute and has promulgated appropriate regulations under 6 NYCRR Part 182. New York State courts have ruled that a “taking” includes not only direct harm to an animal but also to its habitat. In fact, the Appellate Division, Second Department, issued a ruling in recent years that a proposed subdivision in Ridge, Town of Brookhaven, would harm the endangered Eastern Tiger Salamander by destroying a portion of its habitat. The court also upheld NYSDEC’s authority to regulate the development activity pursuant to Article 11.

Recently NYSDEC adopted new rules and regulations codified in Part 182. These include the requirement that a person first apply for and obtain an “incidental take permit” from NYSDEC before engaging in an activity which may harm an endangered or threatened species. NYSDEC may only issue such a permit if sufficient mitigation is provided by the applicant which will result in a “net conservation benefit” to the listed species. Permit applications must provide a description of the proposed action, the location, the nature and extent of the taking and related impacts including the effects on essential behaviors and occupied habitat. The NYSDEC must then review the activity and determine whether issuance of an incidental take permit would jeopardize the continued existence of the particular population of the species involved. The analysis must include any studies of current or past use of the occupied habitat by the species, maps or descriptions of any occupied habitat, consideration of the species' ability to survive and reproduce and a discussion of any adverse impacts of the taking on those capabilities based upon known population trends and known threats to the species. Mitigation measures, including project

modifications, must be examined to determine if there is any means of minimizing the taking or avoiding it entirely. A person or entity may also request a jurisdictional determination from NYSDEC as to whether or not a proposed activity is likely to result in the take or taking of an endangered or threatened species.

#### *NEW YORK STATE – USE AND PROTECTION OF WATER*

This program is authorized pursuant to Article 15, Title 5 of the New York State Environmental Conservation Law. Its legislative intent is to ensure that certain water bodies, streams and rivers are protected from disturbance and degradation. Under this program, the New York State Department of Environmental Conservation is the agency authorized to implement the statute and has promulgated appropriate regulations under 6 NYCRR Part 608.

Regulated protection of waters activities include construction and reconstruction of docks, piers and moorings; construction and reconstruction of dams and excavation of or placement of fill in streambeds. These regulations are particularly concerned with protecting streams and waterways which support trout populations and which support trout spawning or which have high water quality. The regulations classify streams and rivers in accordance with their water quality ranging from A, the highest (and deemed suitable for activities such as swimming), down to C but with those designated as C(t) or C(ts) having special protective classification due to their support of trout populations or trout spawning.

#### *NEW YORK STATE – WILD, SCENIC AND RECREATIONAL RIVERS*

This program is authorized pursuant to Article 15, Title 27 of the New York State Environmental Conservation Law. Its legislative intent is to ensure that rivers designated as wild, scenic and recreational are preserved in free-flowing condition and that their adjacent areas are protected. Under this program, the New York State Department of Environmental Conservation is the agency authorized to implement the statute and has promulgated appropriate regulations under 6 NYCRR Part 666.

Regulated WSRR activities include construction of dams and impoundments, construction of structures, commercial and industrial development, construction of roads and trails and bridges, wastewater treatment and waste disposal, signs, public utility uses and cutting of vegetation and certain recreational uses. The WSRR regulations also contain overlay zoning requirements such as a minimum single-family residential lot size of four (4) acres in scenic areas and two (2) acres in recreational areas, as defined in the WSRR, and a prohibition on most commercial and industrial development. The WSRR regulations also contain restrictions that are applied on a sliding scale for certain activities depending on their distance to the river and its banks, with the greatest restrictions imposed on areas in closest proximity to the river.

#### *NEW YORK STATE – FRESHWATER WETLANDS*

This program is authorized pursuant to Article 24 of the New York State Environmental Conservation Law. Its legislative intent is to preserve, protect and conserve freshwater wetlands and the benefits they provide. The New York State Department of Environmental Conservation is the agency authorized to implement the statute and promulgated appropriate regulations in 6 NYCRR Parts 663, 664, 665, of which Part 663 is the primary regulatory vehicle utilized.

Under this program, NYSDEC regulates wetlands which are designated and depicted on official maps. Although the program focuses primarily on freshwater wetlands of 12.4 acres or greater in size, the program does regulate activities affecting wetlands of smaller acreage, generally those known as “ULI” wetlands – wetlands of Unusual Local Importance. A significant mapping effort was conducted on Long Island in the late 1980s and early 1990s to capture these ULI wetlands which include coastal plain pond shores and breeding habitats of significant wildlife species, including those which are endangered.

NYSDEC categorizes wetlands according to their significance with Class I being the highest and Class IV being the lowest level of importance. Class I wetlands include those which contain habitat of endangered or threatened wildlife species or plants and those which are “hydraulically connected to an aquifer which is used for a public water supply.”

Activities regulated by the State’s Freshwater Wetlands program include filling, draining, excavating, grading, dredging, clearing of vegetation and construction of structures such as buildings, roadways, septic systems, bulkheads, dikes, dams and docks. Certain activities are exempted from the regulations which include certain agricultural activities (with the exception of filling, clear-cutting of trees or construction of non-agricultural structures), harvesting natural products, recreational activities, continuation of lawfully existing land uses and ordinary maintenance and repair of existing functional structures.

Pursuant to Part 663, NYSDEC regulates activities within the wetland itself as well as the area which lies within 100 feet of the landward boundary of the wetland (the delineation of which is verified by NYSDEC). This 100-foot-wide area is known as the “Adjacent Area.” Generally, NYSDEC encourages applicants to shift regulated activities outside of the Adjacent Area, when and where possible, and otherwise to maximize the distance between the wetland and the regulated activity.

Issuance of a permit by NYSDEC to authorize a regulated activity affecting a freshwater wetland is a discretionary action. NYSDEC can approve a project as presented, request modifications and then subsequently approve the project or can deny the project if it determines it will have an adverse impact on the freshwater wetland.

#### *NEW YORK STATE - TIDAL WETLANDS*

This program is authorized pursuant to Article 25 of the New York State Environmental

Conservation Law. Its legislative intent is to preserve and guard tidal wetlands, including preventing damage to them or their outright destruction. Again, under this program, the New York State Department of Environmental Conservation is the agency authorized to implement the statute and has promulgated appropriate regulations under 6 NYCRR Part 661.

As in the freshwater wetlands program, NYSDEC regulates tidal wetlands which are generally designated and depicted on official maps. NYSDEC categorizes several types of wetlands. These are Intertidal Marsh, High Marsh, Shoals and Mudflats and Littoral Zone. Littoral Zone is the area located between the Mean High Water elevation and a depth of 6 feet beneath surface waters, measured at Mean Low Water. (Areas deeper than 6 feet are regulated under another State program, Protection of Waters, which is described elsewhere in this section.)

Activities regulated by the State's Tidal Wetlands program include filling, excavating, grading, dredging, draining, clearing of vegetation and construction of structures such as buildings, roadways, septic systems, bulkheads, catwalks and docks. Certain activities are exempted from the regulations which include continuation of lawfully existing uses; harvesting natural products; recreational activities; ordinary maintenance and repair of existing functional structures such as bulkheads; conducting educational, scientific or research activities and installing individual recreational moorings.

Pursuant to Part 661, NYSDEC regulates activities within the tidal wetland itself as well as the area which lies within 300 feet of the landward boundary of the wetland (the delineation of which is again verified by NYSDEC). This 300-foot-wide area is known as the "Adjacent Area." There are certain exceptions to the 300-foot rule which include the presence of a man-made structure (such as a bulkhead) which is at least 100 feet wide, is in functional condition and was constructed prior to August 20, 1977 and an elevation contour of 10 feet or higher. Generally, NYSDEC encourages applicants to shift regulated activities outside of the Adjacent Area, when and where possible, and otherwise to maximize the distance between the wetland and the regulated activity.

Issuance of a permit by NYSDEC to authorize a regulated activity affecting a tidal wetland is a discretionary action. NYSDEC can approve a project as presented, request modifications and then subsequently approve the project or can deny the project if it determines it will have an adverse impact on the tidal wetland. Certain activities are considered by the regulations as generally having fewer impacts than others (these are known as activities which are "generally compatible" or "minor"). Also, unlike the freshwater wetlands regulations, the tidal wetlands regulations contain specific numerical standards for certain activities, such as requiring sanitary systems to be a minimum of 100 feet from tidal wetlands and principal buildings (such as houses) to be at least 75 feet from tidal wetlands. In addition, the tidal wetland regulations have overlay zoning restrictions including minimum lot size and maximum lot coverage standards.

## **D. POTENTIAL IMPACTS OF THE PLAN AMENDMENTS**

This section evaluates significant environmental impacts to the ecological resources in the Central Pine Barrens as a result of the Plan Amendments being adopted and implemented. A detailed evaluation of each amendment that may affect ecological resources is provided and followed by a summary list of the potential impacts of amendments identified in each chapter.

### **CORE PRESERVATION AREA**

The Plan confirms that development in the Core shall be prohibited or redirected absent hardship exemptions granted by the Commission. The Plan states the Core is to be preserved by a strategy of government land acquisition, the transfer of development rights, conservation easements, gifts, land swaps and donations. The Plan was designed to protect and preserve the ecologic and hydrologic functions of the pine barrens. The Plan Amendments are consistent with the 1995 Plan and do not relax measures to protect ecological resources in the Core. The Plan continues to protect resources in the Core including but not limited to, wetland and terrestrial habitats, representative and listed protected species of animal and plants, populations and ecological communities indigenous to the region.

### **COMPATIBLE GROWTH AREA**

This section contains an evaluation of the potential impacts of the Plan Amendments in Chapters 4, 5 and 6 relevant to the protection of ecological resources in the Compatible Growth Area.

#### *CHAPTER 4: REVIEW PROCEDURES AND JURISDICTION*

The amendments to Chapter 4 clarify existing provisions and their intent and solidify the practices and policies of the Commission since its inception to define activities and to implement the goals and objectives of the Act. Specifically, the amendments are relevant to and/or affect the sections of Chapter 4 of the Plan to review procedures including:

- Section 4.3.9 Project Site
- Section 4.3.10 Self-Heal Restoration, Self Restoration
- Section 4.3.11 Tall Structures
- Section 4.5.4 Critical Resource Areas
- Section 4.5.5.1 Development of Regional Significance
- Subsection 4.5.5.1 #2 Residential, 200 or more residential units
- Subsection 4.5.5.1 #3 Mixed Use, development of 400,000 square feet or greater
- Subsection 4.5.5.1 #4 Water Table Exposure

#### *Section 4.3.9 Project Site*

This new amendment defines a principal term used by the Commission. It is relevant to the protection of ecological resources because defining a project site precipitates the site design including clustering of open space and clustering the development on a project site. The project site may contain parcels that are contiguous and/or non-contiguous. Often, an applicant seeks to preserve certain separate non-contiguous parcels that connect to other open space and cluster development on other parcels where development may be more suitable and/or not adjacent to existing preserved land or significant ecological resources.

Defining the project site confirms the Commission's practice in the initial review of a land use development application. The project site definition requires identification of the parcel(s) in a development project. The parcels may or may not be contiguous. Where the project site contains non-contiguous parcels, an applicant may seek to cluster open space to preserve an existing significant habitat or natural feature such as wetlands or steep slopes. Clustering also ensures the pattern of development is compact, efficient and orderly to achieve the goals and objectives of the Act and the Plan. This approach aims to protect important ecological resources. It recognizes the importance of unfragmented open space and that large swaths of land, which are less common in the landscape, are more desirable from an ecological quality and management perspective. No significant adverse impacts to ecological resources are expected as a result of amendments to Section 4.3.9.

#### *SECTION 4.3.10 SELF-HEAL RESTORATION, SELF RESTORATION*

This is a new section in the Plan that defines a new term for a passive approach to restoration called "self-heal restoration." This natural restoration process may be allowed to occur on a development project site where natural vegetation has been removed, the site is degraded or on sites with areas of bare soil. The self-heal restoration process allows these sites to reseed and revegetate without active planting and may involve invasive species monitoring and physical intervention if invasive species are detected.

This technique aims to preserve seeds, rhizomes and other natural material on a development project site that contains a potentially viable seed bank or subsurface viable plant materials such as live roots or rhizomes. It will reduce the importation of non-native plant material and landscape nursery plants that may not be indigenous to the region.

This amendment aims to address a observed need to allow natural revegetation to occur on development project sites where it appears feasible. It is expected to reduce costs in development projects while simultaneously preserving natural plant material indigenous to the Central Pine Barrens in support of the goals and objectives of the Act.

No significant adverse impacts are expected as a result of the amendments in Section 4.3.10. The amendment will have a positive benefit to ecological resources. It will support the proliferation of native species and natural restoration of ecological communities in the region when applied to a development project that needs to conform to the requirements of



the Section 5.3.3.6.2 Open space standard requirement, unfragmented open space and habitat.

#### *SECTION 4.3.11 TALL STRUCTURES*

This new amendment defines tall structures as 75 feet or taller. The purpose of establishing this definition is to ensure that tall structures in the Central Pine Barrens do not significantly impact ecological resources such as wildlife. It aims to also protect the character of the region and scenic resources that are identified in the Plan, which give the region a unique identity and “sense of place.”

This amendment allows the review of projects that propose to develop structures that exceed the height limit established in this definition. Reviewing projects of this nature offers the opportunity to reduce or mitigate adverse environmental impacts of tall structures through screening, alternatives, or other mechanisms that preserve the ecological resources and the essential character of the Central Pine Barrens.

It is well researched, documented and reported that tall structures may adversely affect ecological resources such as wildlife including migratory birds and bats. Projects with tall structures in the landscape such as wind turbines and wireless communications towers with guyed wires may cause mortality to avian and mammalian species including bats when collisions and other direct impacts occur with tall structures. Scientific research has shown that other threats to bats occur when there is a rapid decrease in air pressure around a wind turbine that can cause bleeding in a bat’s lungs.

No significant adverse impacts on ecological resources are expected as a result of the amendment to Section 4.3.11. The amendment will protect and benefit ecological resources in the region. It defines tall structures which relates to a new proposed standard in Section 5.3.3.11.1, Tall structures, and scenic resources for public corporations and any other development projects which are not subject to local municipal review that propose structures that meet or exceed 75 feet. If conformance is not demonstrated, the applicant will be required to apply for and obtain a hardship waiver from the Commission. As part of the Commission’s review of a hardship waiver request it will consider the appropriateness of design elements including, but not limited to, placement, height, impacts on natural and visual resources. Mitigation may be required as a condition of granting a waiver.

#### *SECTION 4.5.4 CRITICAL RESOURCE AREAS*

The purpose of Critical Resource Areas, as it stated in the GEIS (1994), is to protect and preserve ecologically sensitive resources in the CGA, maintain the effectiveness of the CGA as a buffer for the core while still accommodating development and minimizing fragmentation of existing natural pine barrens vegetation. The amendments to the CRA section of the Plan are ministerial. Former Figure 4-1 combined Brookhaven and Southampton Critical Resource Areas (CRAs). The Amendments created four figures to distinguish them in Figure 4-1 through 4-4. Parcel ownership information is updated.

Corrections to tax map parcel numbers and descriptions of features were improved, where applicable.

New amendments to subsections of Section 4.5.4 are ministerial. They include elaborating on the preamble and adding references to applicable sections of the Act; a reference to Section 57-0121(6)(e) was added. The Act required the identification and mapping of CRAs in the Central Pine Barrens which are of regional or statewide importance.

The amendments to Section 4.5.4.1.1 Brookhaven Town Critical Resource Areas are administrative. They identify the ownership of CRAs including the CRAs that contain steep slopes as significant natural features. All Brookhaven CRAs have been acquired by Suffolk County except for CRA B2. A three-lot subdivision of B2 created a 13.5-acre lot owned by the Town of Brookhaven and two privately owned lots.

Section 4.5.4.1.2 is a new ministerial amendment that identifies Southampton Town CRAs. New Figure 4-4 lists only Southampton Town CRAs and updates parcel ownership status including public acquisitions. This is a ministerial amendment to identify Southampton CRAs separately from the CRAs in Brookhaven, which are in Figure 4-1. Any unprotected CRAs should continue to be targeted for acquisition by public agencies.

No significant adverse impacts to ecological resources related to the CRAs will occur as a result of the amendments specified in Section 4.5.4 since these amendments are ministerial in nature and provide updated information on the status of CRAs.

#### *SECTION 4.5.5.1 DEVELOPMENT OF REGIONAL SIGNIFICANCE*

Amendments to the DRS definitions reflect changes in the types and scale of regionally significant development projects. A new definition of a DRS level project is proposed that defines as a DRS, a development project that exposes the subsurface groundwater table. Direct Commission review continues to be required for DRS applications as specified in the Plan. When a DRS project does not conform with one or more standards or guidelines and if it is not revised to conform, the applicant must seek a hardship waiver. Commission review of DRS project supports the protection of ecological and natural resources of the pine barrens and minimizes the potential adverse impacts of DRS level projects. Site-specific SEQRA analyses will occur to identify potential adverse environmental impacts of DRS level projects.

#### Subsection 4.5.5.1 #2 Residential, 200 or more residential units

There are two separate existing DRS thresholds for residential development: multifamily projects of 300 or more units and single-family detached projects of 200 or more units. A residential development project can include a mix of both multifamily and detached residential units on the same project site, potentially at levels in which each of these individual types of housing are below the thresholds currently listed. This can result in potential impacts on a regional scale that were not fully contemplated under the current

DRS definitions. Therefore, the proposed amendments to this DRS definition combine these existing residential development DRS thresholds.

The proposed new threshold is more protective of ecological resources as it requires a DRS level review when a residential development project proposes 200 or more single-family or multi-family units. A DRS project that proposes 200 or more attached or detached units would likely be reviewed by the Commission in the SEQRA process. A DRS project requires an application to the Commission for review. In addition, a development project of this size and scale may require a change of zone, which by itself is a “development” activity as defined in the Act and adds further credence to mandatory Commission review. A DRS project in this category requires conformance with both Standards and Guidelines including provisions that apply to the protection of ecological resources. No significant adverse environmental impacts are expected to ecological resources as a result of the amendment in Section 4.5.5.1.

#### Subsection 4.5.5.1 #3 Mixed Use, development of 400,000 square feet or greater

This is a new DRS definition to categorize mixed-use development projects requiring mandatory Commission review. It sets a threshold of 400,000 square feet or more. Mixed-use development projects are becoming increasingly more common, but they were not fully contemplated when the original DRS categories were established in 1995. A DRS project in this category requires conformance with Standards and Guidelines including provisions that apply to the protection of ecological resources. No significant environmental impacts to ecological resources are expected as a result of the amendment in Section 4.5.5.1.

#### Subsection 4.5.5.1 #4 Water Table Exposure

This is a new DRS definition that categorizes a development project as a DRS if the project exposes the subsurface groundwater table for uses other than public water supply. One of the principal goals of the Act is to protect groundwater resources. When a development project disturbs and excavates a project site to a depth that directly intercepts groundwater, it is necessary to review the activity to assess potential impacts, make modifications if necessary, and ensure resources are protected. Potential impacts that may occur on nearby ponds and wetlands may include lowering of the water table that could result in decreased surface water area and changes in ecological communities. Hydrologic changes may impact ecological communities such as coastal plain ponds or other isolated and vernal ponds and freshwater wetland habitats.

Evaporation and temperature changes in groundwater resources are potential adverse impacts that may occur as a result of exposed surface water area and cannot be understated in terms of potential adverse impacts on groundwater levels. Evaporation may be of particular concern in periods of drought. This activity may also affect public drinking water supply wells and pumpage rates particularly if the site is in the groundwater contributing area of a public water supply wellfield. Exposed groundwater has the potential to be contaminated from airborne pollution and from surface water runoff introduced into the

aquifer system or other potential illegal activities such as dumping of liquid or solid wastes.

The amendment excludes lined ponds that do not expose the subsurface groundwater table. No significant adverse impacts are expected as a result of the amendments in Section 4.5.5.1 since projects that involve exposure of subsurface groundwater table would be required to comply with Standards and Guidelines. The amendments provide greater protection of ecological resources of the Central Pine Barrens.

#### *CHAPTER 5: STANDARDS AND GUIDELINES FOR LAND USE*

A detailed evaluation of the impacts of Chapter 5 amendments follows the list of section amendments. Amendments in Chapter 5 are largely ministerial and include edits, adding words or terms in section headings and references to existing provisions or regulations, and clarifying existing policies and practice. Specifically, amendments are proposed to sections including:

- Standard 5.3.3.4.1 Nondisturbance Buffers
- Standard 5.3.3.4.4 Reduction of Impervious Surfaces
- Section 5.3.3.6 Coordinated Design for Open Space, Habitat and Soil Protection
- Figure 5-1 Clearance and Open Space Standards
- Standard 5.3.3.6.1.7 Overcleared sites (reconcile conflict with other provisions)
- Standard 5.3.3.6.2 Open space requirement, unfragmented open space and habitat
- Standard 5.3.3.6.3 Fertilizer-dependent vegetation limit
- Standard 5.3.3.6.4 Native Plantings
- Standard 5.3.3.6.5 Receiving entity and protection for open space areas
- Standard 5.3.3.6.7 Invasive Plant Species Mitigation
- Guideline 5.3.3.6.7.1 Invasive Species Mitigation
- Standard 5.3.3.7.2 Bird Conservation and Protection
- Section 5.3.3.9 Dark Sky Compliance
- Section 5.3.3.11 Scenic, Historic, Scenic, and Cultural Resources

#### *STANDARD 5.3.3.4.1 NONDISTURBANCE BUFFERS*

The amendments to this existing standard confirm Commission practice to protect wetland habitats including isolated or vernal freshwater wetlands. A Core hardship application for a utility substation expansion highlighted the need for this amendment. A small vernal pond wetland habitat was identified on the project site during the review process. The wetland was not delineated or depicted in the site plan. Absent identification during the review process, it had the potential to be developed. Nondisturbance buffers were added for its protection.

The amendment allows the Commission to require nondisturbance buffers including stricter and larger buffers when necessary to protect natural resources including wetland habitat. It allows the Commission when reviewing a hardship waiver, in those rare instances where a

wetland is not mapped and the project is not subject to State or local municipal review or regulations, to require an applicant to delineate wetland(s) on a project site. This amendment allows the Commission to determine protection measures including the adjacent area and width of nondisturbance buffers. Presently, no wetland protection measures exist when local, State, and Federal agencies are not involved in a project.

The amendments may result in a minimal net increase in the protection of isolated unmapped wetland habitat in the Central Pine Barrens and conversely a minimal reduction may occur in developed area. But the amendment ensures protection of unmapped, unregulated and undocumented vernal ponds. It will also protect other minimally sized but potentially ecologically sensitive habitats and seasonally flooded areas that may harbor amphibians, plants, and other unique species and ecological communities on a development project site. Therefore, the amendments will have beneficial rather than adverse impacts to the ecological resources of the Central Pine Barrens.

#### *Standard 5.3.3.4.4 Reduction of Impervious Surfaces*

This is a new proposed standard in the Plan. The intent of this amendment is to work in coordination with the open space standard. This Plan Amendment requires a reduction in impervious surfaces on project sites that are extensively cleared and contain existing large areas of impervious surfaces due to their prior use or development (e.g., former box store or movie theater sites). Sites of this nature typically predate the Act. Reducing the extent of impervious surfaces in exchange for increasing the extent of naturally vegetated area directly increases habitat and benefits pine barrens ecology. Secondary beneficial effects to natural resources that are expected as a result of this amendment include soil and erosion protection and water quality preservation through natural filtering processes and percolation to the aquifer.

The intent of this standard is to provide greater protection of the natural resources in the CGA by reducing potential adverse impacts of large impervious surface areas by restoring natural vegetation to the site that would serve as open space. The amendment supports minimizing edge effects, maximizing habitat and adjoining natural areas that minimize fragmented habitat and reduce the lack of natural resources where extensively paved sites exist in the CGA.

As discussed in “Water Resources,” the revegetation activity will improve the ability of precipitation to infiltrate into ground water, reduce contaminant transport and reduce higher temperatures associated with impervious pavement. The amendment requires the development project site to conform to the applicable open space standard by allowing the site to revegetate back using the self-heal process if viable instead of plantings and may require the removal of pre-existing concrete or asphalt surfaces to meet this requirement. The standard aims for the Plan to continue to implement the goals and objectives of the Plan and the Act. There are no significant adverse impacts anticipated to ecological resources due to this Amendment and instead beneficial impacts to ecological resources

will occur as discussed in this section.

*SECTION 5.3.3.6 COORDINATED DESIGN FOR OPEN SPACE, HABITAT AND SOIL PROTECTION*

This is a new amendment that confirms Commission practice, adopted resolutions and determinations concerning open space on development project sites. Ecological principles identified in the amendments are based on past research conducted during preparation of the 1995 GEIS, current research and the review of other hamlet and town-wide master plans adopted prior to and at the time of the Plan. This amendment merely elaborates on the Commission's practice, approach to, awareness of and research on ecological communities and habitat fragmentation.

The conservation design and open space management manual referenced and included as part of the amendments discusses and illustrates potential site plan and subdivision designs to configure open space in an unfragmented pattern on a project site. Although not elaborated in the current Plan, this approach or practice is currently employed. The current Unfragmented Open Space Standard aims to situate open space in the largest block feasible, with minimal edges to preserve the greatest amount of interior habitat possible on a project site. As per Volume 2, Chapter 5: Ecosystems Overview, a design that maximizes interior habitat and minimizes edge effects is most desirable. When this is not possible, a buffer zone adjacent to the core preservation area is important.

The standard also aims for existing and future open spaces to be connected and to create large forested blocks with minimal edges or large swaths of farmland depending on the site's existing conditions, cover types, or land use objective for the preserved area. Volume 2 of the Plan, other references and scientific research support the preservation of large blocks of open space for greater habitat quality and quantity, to optimize the conservation area and to create compact, efficient, and orderly land use development. As explained in Volume 2, the Core should represent the full range of communities in the region. The buffer zone should be managed to minimize the ecological contract between the buffer and the core. This amendment merely elaborates on current practice and will have a continued and enhanced beneficial impact on ecological resources in the Central Pine Barrens.

Agricultural soils and agricultural uses are preserved in this Plan Amendment. When a land use is converted or redevelopment occurs on existing farmland, a portion of the existing agricultural use will be retained as an agricultural reserve. The remaining area will constitute the redevelopment area. This amendment advances the preservation of prime agricultural soils and agricultural uses as directed in the Act.

*FIGURE 5-1*

The new amendments to Figure 5-1, clearing and open space standards, identify the exact percentages of clearing allowed and open space required on a development project site. The open space requirement is identified as the inverse of the clearing limit or the area left to

remain natural after the clearing limit is achieved. This practice is already employed; no change to existing practice is proposed. The amendment merely clarifies existing practice. The amendment provides clarity in determining a development project's open space requirement and therefore will have no significant adverse impacts on ecological resources.

In Figure 5-1, open space requirements are now specified in text form which provides clarity as to how much open space is required to be retained on a development project site. In addition, clearing in the non-residential category, formerly applicable only to commercial and industrial uses, was minimally reduced from 65% to 60%. However, this category now also includes projects by state and public corporations where those uses are often currently controlled by typically more restrictive clearing standards for residential zoning categories which do not distinguish non-residential land uses from residential.

The amendments apply to non-residential uses such as schools to allow clearing for structures, facilities, athletic fields and facilities, security viewsheds, school bus staging areas and other uses that would be expected to benefit a larger population and offer a minimal increase in the clearing allowance for the development of additional facilities. Currently, for such uses, the clearing standard is applied based on the local zoning district in which the site is located, not the land use type or applicant such as a utility. In the current Plan, the resulting standard may be more restrictive than the amendment allows since it is often the case that schools and institutional uses are developed in or exist in residential zoning districts where clearing standards are likely to be more restrictive (i.e., allow less clearing). The amendment is not likely, except in rare cases, to be more restrictive than the Plan allows absent the amendments. In fact, the amendment is expected to have the opposite effect, to be less restrictive to state and public corporation uses. No significant adverse impacts to ecological resources are anticipated. The minor incremental increase in clearing in the public corporation projects, which is already restricted to a very limited universe of affected sites, is expected to achieve public benefits that apply to a wide population outweighing the minor incremental increase in potential clearing that may occur when a development of this type is proposed.

#### *STANDARD 5.3.3.6.4 NATIVE PLANTINGS*

The amendments to this existing standard are administrative. The list of plant species was updated as a list of general planting recommendations including an expanded list of acceptable plants. The amendments expand the list of plant species to avoid in landscaping and restoration activities. The updated list provides applicants with more options than the current Plan offers when designing a landscape or restoration plan that requires the use of native species. An expanded list of nonnative plants named "species not recommended for use" is also identified in the list.

This minor amendment provides additional useful references and resources to applicants and reviewers of development projects and results in no adverse environmental impacts on ecological resources. Instead, it provides more information on native plants that will promote the retention of ecological resources indigenous to the region. No adverse impacts

will occur as a result of this amendment.

*STANDARD 5.3.3.6.1.7 OVERCLEARED SITES (reconcile conflict with other provisions)*

This is a new standard that requires re-drafting and a correction because it incorrectly conflicts with other provisions such as Standard 5.3.3.4.4 Reduction of impervious surfaces and 5.3.3.6 Coordinated design for open space habitat and soil protection. The Plan Amendments Standard 5.3.3.4.4, Reduction of Impervious Surfaces and Section 5.3.3.6 adds provisions requiring the protection of open space on sites that are presently overcleared. Currently, no open space is required on overcleared or overdeveloped sites when redevelopment occurs. This section will be rewritten or corrected to reconcile the requirements of the Plan Amendments.

*STANDARD 5.3.3.6.2 OPEN SPACE REQUIREMENT, UNFRAGMENTED OPEN SPACE AND HABITAT*

This existing standard was amended to outline a process that clearly identifies and prioritizes areas to set aside as open space on a project site to protect significant features including but not limited to ecological communities, species, cultural resources, agricultural reserves, and contiguous open space. Instituting clustering techniques to protect open space and to cluster development avoids intrusions and encroachments into areas that are required to remain natural and undisturbed in the long-term. The amendment incorporates other new standards that allow revegetation or self-heal restoration to occur on a project site, where feasible. The standard is more protective of the resources of the CGA. It results in no adverse impacts on the resources of the Central Pine Barrens.

*STANDARD 5.3.3.6.3 FERTILIZER-DEPENDENT VEGETATION LIMIT*

This administrative amendment updates an existing standard with lists of acceptable and unacceptable plants based on the best available research and findings on ecological communities and native species. No significant adverse impacts are expected as a result of the amendments to this standard that furthers the protection of ecological resources through the use of native plants that require less fertilizer to thrive.

*STANDARD 5.3.3.6.5 RECEIVING ENTITY AND PROTECTION FOR OPEN SPACE AREAS*

This administrative amendment updates an existing standard with new information and optional mechanisms for the dedication and transfer of land. Oversight and enforcement authority is also mentioned in regard to open space conservation easements granted to the Commission. The amendments are ministerial. No adverse impacts are anticipated as a result of the amendments to this standard.

*STANDARD 5.3.3.6.7 INVASIVE PLANT SPECIES MITIGATION*

This new standard applies to a development project site that sets aside 10 acres or more of



open space. In such a case, the presence or absence of invasive plant species shall be identified and may involve mapping and describing the extent of coverage. The standard reiterates the existing requirement to use the list of native or acceptable plants and prohibit the use of species listed as unacceptable and invasive. No significant adverse impacts will occur to ecological resources. This amendment enhances protection of ecological resources and indigenous species in the Central Pine Barrens and aims to manage invasive species in the pine barrens landscape.

#### *GUIDELINE 5.3.3.6.7.1 INVASIVE SPECIES MITIGATION*

This new Guideline aims to allow a self-heal restoration process on a development project site where natural vegetation has been removed and areas of bare soil exist. This self-heal provision allows sites that have not been excessively disturbed, where soils have not been excavated and removed, to be naturally restored through the seeds, roots, rhizomes and other natural material that exists to recolonize an area without active replanting. The self-heal provision aims to utilize existing plant material that occurs naturally in disturbed areas, avoiding excessive landscaping and the potential importation of non-native genotypes. By allowing a site to self-heal and promote the proliferation of native plant material in the soil, it is expected that the applicant will need to commit less energy and financial resources, maintenance, and management of nonnative species in the landscape over the life cycle of a development project.

The amendment permits applicants to identify, remove and eradicate invasive plants on project sites where the Commission is an involved agency or is reviewing the project under one or more provisions of the Act. This standard discusses requirements to prepare a restoration plan for the targeted area and a written report including a maintenance schedule to successfully remove invasive species and restore the site.

This new guideline would apply to projects defined as DRS, CRA, or Assertions of Jurisdiction. This minor amendment results in no adverse environmental impacts to ecological resources and instead provides the enhanced protection of ecological resources from invasive species for projects that are required to conform with guidelines.

#### *STANDARD 5.3.3.7.2 BIRD CONSERVATION AND PROTECTION*

This new standard ensures protection of ecological resources specifically avian species including songbirds and flying mammals such as bats in the Central Pine Barrens. Proposed measures will provide protection where feasible through the reduction of structures, surfaces and materials that have been identified as adversely impacting and resulting in a significant number of fatalities in wildlife populations, threatening their existence and continued proliferation. Although this is a new provision in the Plan, it is a well-known, researched and documented environmental concern among ornithologists, planners, architectural designers and regulators that significant mortality occurs when wildlife collides with certain structural features in the developed landscape.

Federal legislation has been adopted to address the subject matter. According to an amendment to Title 40 of the United States Code, known as the “Federal Bird-Safe Buildings Act of 2011,” it was observed that birds are not only beautiful, interesting animals, but birdwatchers contribute tens of billions of dollars annually to the United States economy. It is also well established that birds, through their life cycles and behaviors, naturally contribute billions of dollars worth of ecosystem services including pest control, benefitting farmers and consumers alike. They pollinate crops providing economic benefits to humans, create ecotourism opportunities, and contribute to other environmental and natural resources including soil, water, and wildlife.

One of the goals and objectives of the Act requires protection of the Pine Barrens ecosystem and the significant natural resources including plant and animal populations and ecological communities. This amendment identifies measures that are expected to reduce avian mortality that occurs as a result of developed structures, materials, and features that are not designed as “bird safe.” Fatal bird strikes could be significantly reduced through minimal modifications to a structure’s reflective and other surfaces using simple, low-cost adaptations such as window decals, where practicable. This environmentally considerate amendment to protect ecological resources in the Central Pine Barrens region, a primary objective in the Act, results in no adverse significant environmental impacts and instead strives to provide greater protection of ecological resources.

*SECTION 5.3.3.9 DARK SKY COMPLIANCE AND STANDARD 5.3.3.9.1 LIGHT POLLUTION PREVENTION*

This new section and standard apply only to projects that the Commission may see and review that are not presently subject to local municipal review and approval such as projects by public corporations, schools and utilities. Local town zoning codes in the Central Pine Barrens already contain regulations to limit the extent of lighting illumination and direct lighting upward that may impact adjacent properties and other resources. The new Plan provisions are consistent with existing town code regulations and other objectives in the region that support reducing adverse impacts from excessive lighting and the encourage conservation of energy resources.

A limited number of projects are not subject to local review and zoning. Moreover, current industry standards support energy conservation fixtures and dark skies standards are widely accepted in site planning and design. The amendments will directly protect ecological resources from excessive glare that might interfere with habitat, breeding and foraging activity and behavior of pine barrens flora and fauna. No significant adverse impacts are anticipated as a result of this amendment. It strives to provide greater protection of developed communities and undeveloped and open space resources in the region.

*SECTION 5.3.3.11 SCENIC, HISTORIC AND CULTURAL RESOURCES*

The amendments in this existing section are largely ministerial. They identify natural resources including habitats of rare species, ecological communities, areas of significant

natural features, archaeological sites, historic resources, floodplains, wetlands, scenic vistas, steep slopes and other areas that should be protected as open space and where disturbance should be avoided. Where land is actively cultivated, the Act and the Plan aim to protect existing farmland. The amendments support the preservation of agricultural reserves to satisfy the open space standard.

This section was amended to expand the preamble elaboration on the preservation of historic and cultural resources and to include a discussion on the new Guideline on tall structures. The new provision, Guideline 5.3.3.11.1 Tall structures and scenic resources, applies to development projects by public corporations and other projects not subject to local municipal review and approval. Tall Structures are defined in Chapter 4, Section 4.3.11. Development projects that meet or exceed the height definition of a tall structure must apply for a hardship waiver. The amendments promote the adaptive use or reuse of existing tall structures in lieu of new structures. Depending on the size, number, design or use of the tall structure (e.g., communications tower with guyed wires, wind turbine), it may directly impact wildlife, impede the habitat or behavior of wildlife and induce other impacts on ecological resources. This new amendment provides for greater protection of the natural resources of the Central Pine Barrens. No significant impacts to ecological resources are anticipated as a result of the amendments in this section.

#### *CHAPTER 6: PINE BARRENS CREDIT PROGRAM*

A detailed evaluation of the impacts of Chapter 6 amendments follows the summary list of section amendments. The amendments to Chapter 6 are ministerial in nature. The changes include administrative edits in the chapter, changes to map titles, an updated list of Town of Riverhead Receiving Area parcels and a map, clarifying terms and dates from which allocations are computed, and outlining steps in the credit appeal hearing process. The ministerial nature of these amendments results in no significant adverse impacts to ecological resources.

Depending on the development and zoning of the new Town of Riverhead Receiving Areas in the CGA, a potential slight incremental increase in clearing may occur in the CGA in the Town of Riverhead as a result of a parcel receiving Pine Barrens Credits. However, no significant adverse environmental impacts are expected on ecological resources in the CGA in Riverhead or other Towns as a result of the development of in receiving areas. Receiving Areas were identified and continue to be recognized as opportunities to cluster development in a compact, efficient, and orderly pattern. Redirecting development potential from the Core to areas outside the core preserves the core and avoids fragmented habitat and impacts to resources in the Core. The Credit Program and land use development activities are coordinated to achieve the goals and objectives of the Act.

#### *Section 6.5.6 Redemption of Pine Barrens Credits within the Core Preservation Area Prohibited*

This new section reiterates the goals and objectives of the Act to redirect development from the Core to the CGA and to areas outside the Central Pine Barrens. It affirms that Pine

Barrens Credits (PBCs) are not allowed to be redeemed in the Core. The Core is designed as a sending area, not a receiving area where increases in land use development density or intensity are encouraged. It would contradict the intent of the Act if PBCs were transferred into the Core.

The Plan prohibits development in the Core absent a hardship waiver. Furthermore, credits landed in the Core would increase development in the Core, potentially resulting in adverse impacts on ecological communities, plant and wildlife resources, water resources, and other environmental subjects. This amendment is ministerial in nature. It emphasizes the Core as a sending area and confirms what is intended in the Act. Therefore, no significant impacts will occur to ecological resources from this amendment, and it provides continued protection of the ecological resources of the Core.

#### **SUMMARY OF POTENTIAL IMPACTS**

No significant adverse impacts are expected to ecological resources in the Central Pine Barrens as a result of the amendments. The amendments aim to address gaps in the regulatory environmental review of actions that may have adverse impacts on the resources of the Central Pine Barrens. They are intended to strengthen and clarify practices to ensure resources are protected pursuant to the goals of the Act.

#### **E. MITIGATION MEASURES**

No mitigation measures are required for these amendments since most of the amendments are ministerial in nature and seek to confirm and enhanced protection of ecological resources and result in no significant adverse environmental impacts.

**A. INTRODUCTION**

This chapter reviews the goals and objectives for water resource protection in the Central Pine Barrens. It discusses the Plan Amendments and identifies potential adverse environmental impacts, if any, the Plan Amendments may have on the quantity and quality of water resources in the Core Preservation Area and the Compatible Growth Area, which may result from their adoption and implementation.

Sources of nutrient contamination in water resources originate from sanitary systems, fertilizers, and other sources through groundwater underflow. Development can contribute significant quantities of nitrogen to surface waters and groundwater resulting in potential adverse impacts to water resources.

Protection of the quality of surface and groundwater resources is the principal objective of the Act and the Plan. The other primary objective is to protect ecological communities in the Central Pine Barrens. Ecological communities may be affected by the quality of water resources in a given surface water feature, wetland or habitat.

The Plan anticipated protection of groundwater and surface water quality through the land acquisition program in the Core that reduced total consumptive uses and the transfer of density from the Core to the CGA and to areas outside of the Central Pine Barrens. Town zoning initiatives and land acquisitions also achieved reduced densities that contributed to avoiding adverse impacts on water resources. Wetland protection regulations are supported in the Plan to protect significant surface water resources in the region.

Implementation of the Plan continues to accommodate development in a manner consistent with the long-term integrity of the Pine Barrens ecosystem and water resource protection, to ensure that the pattern of development is compact, efficient and orderly and aims to minimize impacts on water resources in the Central Pine Barrens.

**B. WATER RESOURCES****1994 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS), 1995 SUPPLEMENTAL DGEIS, AND FINDINGS STATEMENT**

This section reviews the conclusions pertaining to water resources in the Findings of the GEIS for the Plan. The GEIS focused on the Peconic River watershed since the Pine Barrens Credit Program receiving areas that may impact surface waters are mostly associated with that area. The subjects including groundwater quality and quantity and

surface water resources, Core and non-Core hydrogeology and hydrology, surface water and wetland quality were addressed in the DGEIS and are summarized here.

#### *GROUNDWATER QUANTITY AND QUALITY*

The SEQRA record supports the goal of protection and enhancement of groundwater recharge and maintenance of drinking water quality in the Central Pine Barrens. Development according to the Plan will have minimal impact on groundwater quality or quantity. The Plan protects these resources by requiring the elimination of up to 2,420 dwelling units from the Core through the acquisition program or the Pine Barrens Credit (PBC) Program. This transfer will have a beneficial impact on the Core because the units and their associated impacts on groundwater quality and quantity will not occur in the Core.

The impact on groundwater quality or quantity of the transferred units is mitigated by other Plan provisions. The Plan supports the Suffolk County Department of Health Services amendment to Article 6 of the Suffolk County Sanitary Code that would allow up to 600 gallons of rated sewage flow per day per 40,000 square feet of land area, only as required to implement the PBC Program. As stated in the SEQRA record, this standard has been conservatively estimated to result in total nitrate-nitrogen concentrations in recharge to groundwater which are well below the New York State Department of Health Standards. Thus, incremental increases in development density or intensity in the non-Core areas generated by the redemption of PBCs will not significantly impact groundwater quality with respect to nitrate-nitrogen. The SDGEIS reported that preserving 2,149 acres in the Core would result in preventing approximately 54,000 pounds of nitrogen per year from entering groundwater (25 lb/year/acre for one dwelling unit per acre).

According to the FGEIS, the Plan mitigates the potential for the increased discharge of synthetic organic contaminants by reducing the total number of housing units that can be built in the Central Pine Barrens. This reduction occurs through the acquisition program and the Pine Barrens Credit (PBC) which allows the transfer of development from the Core to non-Core areas. Potential impacts are also mitigated by restricting lawn and landscaping requirements in development projects through the application of the standards and guidelines for land use.

Implementation of the Plan will have beneficial impacts on groundwater resources by reducing the pumpage demands and the ultimate number of consumptive uses in the Core by acquiring land or transferring development to the non-Core areas. According to the SEQRA record, Plan implementation will result in a regional reduction in the number of units which can be developed in the Central Pine Barrens. An estimated 0.73 million gallons per day of demand for water will result from the Plan's implementation. This represents a 7% increase over current demand and is well within the present pumpage capacity for these areas.

## *SURFACE WATER RESOURCES*

Based on the SEQRA record, implementation of the Plan will not result in an increase in nitrogen or phosphorus loadings to surface waters on a regional basis. Additionally, as the acquisition policy is implemented, impacts on surface water will be reduced below that which can be expected under existing conditions in the absence of the Plan.

In order to mitigate site-specific impacts, the Plan requires that all stormwater be recharged on site. The use of naturally vegetated swales and depressions is recommended. These measures will reduce the nitrogen loadings by facilitating nitrogen uptake prior to recharge.

## *CORE PRESERVATION AREA*

In the Core, land will be preserved instead of being developed and therefore water pollution inputs from such development would be avoided. In addition to groundwater and natural resource benefits, surface water protection will be advanced.

## *HYDROGEOLOGY AND HYDROLOGY*

Hydrogeology will not be impacted by the Plan or by permitted uses in the Core. The potential amount of water that will be used by additional residentially related uses in the Core is anticipated to be substantially less than the estimated full build out figure of 1,463,600 gpd since development will be redirected to outside of the Core through the PBC Program. Development potential will also be reduced through the acquisition of a portion of the parcels in this area. These factors, along with the fact that no new commercial, industrial or agricultural uses will be allowed in the Core area will potentially result in an overall decrease in demand on groundwater resources in the Core area. Therefore, the overall impact to the Core will be beneficial.

Human impacts on water resources have been documented in agricultural areas as well as in areas immediately around spills and leaks such as those at gasoline stations and at major industrial uses such as at Brookhaven National Laboratory, the former Grumman facility in Calverton and Westhampton's Gabreski Airport. The Plan does not permit new agricultural uses or commercial/industrial uses to be developed in the Core without a hardship waiver. This benefit will serve to minimize further degradation of groundwater quality.

Good to excellent water quality is found in relatively undeveloped, non-agricultural regions of the Central Pine Barrens. The PBC Program's redirection of the majority of residential development outside the Core is expected to be environmentally beneficial as it will aid in the protection of groundwater quality. Short-term impacts to groundwater and surface water in the Core due to construction activities related to permitted uses will likely be minimal due to the limitation placed on permitted uses in the Core by the Plan. The long-term impact of the Plan on groundwater and surface water resources will be an overall decrease in the amount of road runoff containing various contaminants, road salt, sanitary discharges, fertilizer and pesticide applications on private properties and inadvertent

discharges of household chemicals, and the like, due to the limitation of permitted uses in the Core area and the redirection of development away from the Core area.

The actual amount of sanitary flow that would occur from additional new residential development allowed in the Core area under the Plan is anticipated to be substantially less than the amount of sanitary flow that was estimated for the additional housing units that could occur under the full buildout scenario which would have generated 1,097,700 gpd. The Plan's reduction in sanitary flow in the Core is due the redirection of development away from the Core, the acquisition of a certain portion of the parcels in the Core and the overall limits and constraints on and reduced extent of permitted uses within the Core area. Therefore, the Plan will have an overall beneficial impact on groundwater by reducing the potential of further degradation from sewage systems.

#### SURFACE WATER AND WETLAND QUALITY

Present day water quality in pond and wetland systems can be expected to reflect specific inputs such as atmospheric pollution and stormwater runoff and the introduction of nitrogen from fertilizers into these systems from runoff and groundwater. Phosphorus can be contributed by runoff since phosphate is relatively immobile in groundwater.

Short-term impacts on ponds and wetlands that may result from construction activities related to permitted uses in the Core area. Potential impacts would be minimal due to the development limitations placed on such permitted uses in proximity to these areas. Secondary or indirect beneficial impacts that would result from the protection of pond and wetland quality as a result of the Plan's implementation would be the protection and prevention of degradation of sensitive and often rare or endangered ecological communities that are associated with ponds and wetlands. Long-term impacts to pond and wetland quality will be beneficial since the redirection of development from the Core area will reduce anticipated stormwater runoff and nitrogen from fertilizers associated with future development.

#### *NON-CORE*

#### HYDROGEOLOGY AND HYDROLOGY

The overall hydrogeology will not be significantly impacted by the proposed build out pursuant to existing zoning within the CGA. Sewage generated by land use within that area will be discharged back to groundwater either through septic systems or sewage treatment plants, therefore not altering the hydrologic balance of the aquifers.

The Standards for land use development in the Plan deal with minimizing impacts from development on water resources. As noted in the DGEIS (1994), development within the CGA will impact the underlying groundwater resources, however, the standards in the Plan require development proposals not to exceed the nitrogen loading of 6 ppm on the project



site and that all proposals shall conform to Article VI of the Suffolk County Sanitary Code. Where the proposed overall density is greater than one unit per acre and the size of the proposed development justifies their use, sewage treatment plants will be recommended for subdivisions and for certain development projects in Hydrogeologic Zones III, V and VI. In addition, policies and standards require that development plans shall place no more than 15% of the entire site in turf or fertilizer dependent vegetation. Furthermore, development proposals shall not contain a land use or activity which exceeds or poses a very strong scientific probability based upon documented experience to exceed the New York State or Federal standards for any recognized drinking water contaminant.

The standards state that the location of nearby public supply wells shall be considered in all applications involving significant discharges to groundwater and consultation will be made with the appropriate water purveyor or well operator. The Suffolk County Department of Health Services guidelines for private wells shall be used for wellhead protection. With respect to agricultural and horticultural uses, the policies and standards indicate that best management practices for the use of fertilizers or pesticides, including, but not limited to integrated best management, shall be encouraged and employed wherever possible.

Based upon the above standards and policies, impacts on the groundwater resources from development within the CGA will be kept to a minimum and is not expected to be significant.

#### *SURFACE WATER AND WETLAND QUALITY*

With regard to surface and wetland water quality there is very little information available on water quality conditions in specific wetlands and surface waters within the CGA. Under natural conditions, these systems are probably nutrient deficient with nitrogen and phosphorus being the chemicals that limit productivity. The Plan states that present day water quality in these systems can be expected to reflect inputs such as atmospheric pollution and stormwater runoff. Nitrogen from fertilizers can be introduced into these systems by runoff and groundwater, while phosphorus can be contributed mostly from runoff since phosphate is relatively immobile in groundwater. Isolated surface water resources such as coastal plain ponds have been documented and serve as a baseline indicator of pristine habitats to which other freshwater wetlands can be compared.

The standards for wetlands and surface waters specify that development proposals for sites containing or abutting tidal wetlands, freshwater wetlands and surface waters, must be separated by a minimum 100-foot nondisturbance buffer area. In addition, a 100 foot setback shall be required from documented areas of seasonal high groundwater elevations less than four feet from the surface or greater setbacks may be required where the 100 foot nondisturbance buffer area is insufficient to protect wetland habitat.

Stormwater runoff from development into surface waters and wetlands can impact resources. Therefore, the policies and minimum standards require that all stormwater runoff

originating from development shall be recharged on the development site. The Plan further encourages the use, when appropriate, of natural swales and depressions and/or the installation of perforated pipe, vertical drains or drywells in place of standard recharge basins.

Where large wetland systems and surface waters existed on vacant undeveloped property in the CGA, the properties were recommended for designation as Critical Resource Areas (CRAs) and for preservation. In order to reduce nutrient, sediment and pollutant loadings to surface waters, structural and nonstructural mitigation measures should be implemented for all existing and future significant direct water discharges to surface waters within the Central Pine Barrens where runoff is derived from developed uses.

Based on the standards, policies, and recommendations in the Plan, development in the CGA was expected to be insignificant. Provisions were made for the adequate protection of surface waters and wetlands from future development as well as recommending that existing discharges be reduced from existing development. (DGEIS, 1994, p 325)

#### *BROOKHAVEN*

A summary of the Supplemental DGEIS indicates:

- Phosphorous may be introduced in greater quantities in surface waters where Pine Barrens Credits are used on lands situated in the surface watershed of the Carmans and Peconic Rivers or ponds.
- Where PBCs are utilized in the Carmans River groundwater-contributing area it could result in increased nitrogen loading to the Carmans and impacts to surface waters of the South Shore Estuary.
- Minimum lot size in receiving areas would be 20,000 square feet.
- Nitrogen loading to groundwater will not increase on a regional basis.
- The plan provides for “No net increase” of total allowable nitrogen to the groundwater in the Central Pine Barrens in Brookhaven. Regionally, a beneficial impact is likely due to the significant reduction in potential units.

#### *RIVERHEAD*

Water quality in the freshwater portion of the Peconic River is generally excellent with respect to nitrogen concentration (0.5 mg/l at USGS gauge upstream of Riverhead STP).

In 1988, an estimated 34% of Peconic River watershed remained available for development. Pre-existing development existed at the time of the Act. Efforts by public

agencies to acquire land since the Act have protected portions of the Peconic River watershed. The Town's transfer of development rights program and receiving areas outside of the Core have accomplished land and water resource protection in the Core and in portions of the Peconic River watershed.

### *SOUTHAMPTON*

The Plan was expected to result in beneficial impacts to water resources. No adverse impacts were expected. Receiving sites in the hamlet of Riverside, for example, in the commercial/industrial subdivision known as Southampton Enterprise Zone, are within the groundwater contributing area to Peconic River. However, it was concluded that given the relatively small size of the receiving area, approximately 50 acres out of the contributing area of an estimated 16,000 acres, the individual impacts from this receiving area were anticipated to be minimal.

No significant impacts on estuarine surface water resources were expected. Site-specific mitigation measures would be implemented in receiving areas to minimize impacts, via stormwater runoff or groundwater recharge nutrient loadings, to surface water resources. Suffolk County Sanitary Code regulations are expected to limit potential nitrogen loading impacts to the Peconic River watershed.

## **C. EXISTING CONDITIONS**

### **CORE PRESERVATION AREA**

In the Core, goals and objectives are in place to prohibit or redirect development. With the exception of uses that pre-date the Act and Core hardship waivers granted since the Act, impacts on water resources in the Core have been avoided and development has been limited.

Expansions in the Core have occurred since the Act including when the Town of Brookhaven initiated a study to protect the Carmans River watershed. It resulted in the Town's preparation of an Environmental Impact Statement, the Carmans River Management Plan, that added nearly 1,900 acres to the Core. The Credit Program applies to the Core expansion area as of January 1, 2014, making land in the sending area eligible to receive Pine Barrens Credits.

The process of sending Pine Barrens Credits to CGA receiving areas and areas outside the CGA causes the transfer and development of dwelling units from the Core to non-Core areas. The Town, in their GEIS, analyzed and confirmed there was sufficient receiving area capacity to accommodate the additional PBCs generated by the expansion.

The Carmans River Management Plan intends to control growth and minimize adverse impacts from development in the Carmans River watershed. The Carmans Plan also

identified a list of parcels in the watershed as priority acquisitions to facilitate the Plan's objective to protect the watershed's natural resources.

State, County, and local agency efforts and scientific initiatives are underway to identify and reduce sources of nitrogen input in the Peconic River watershed that may impact water resources. Installation and use of alternative on-site wastewater treatment systems are supported by regional entities including the Towns and Suffolk County. Some agencies have implemented grant programs that partially fund the installation of such alternative innovative on site wastewater systems particularly in priority coastal zones to reduce nitrogen loading in groundwater and surface water resources.

In 2015, the Town of Southampton completed a GEIS for and adopted a hamlet plan known as the Riverside Revitalization Action Plan. The hamlet redevelopment plan affects approximately 468 acres, the majority of which is in the CGA, proposes increases in land use density and intensity and it may bring to fruition opportunities to receive Pine Barrens Credits in designated Receiving Areas (RAs). Southampton Enterprise Zone, a commercial/industrial subdivision, is a RA. Lots in the Enterprise Zone RA were developed with uses including a bank and special trade contractor uses with no PBC redemptions. Other lots in the Enterprise Zone RA are presently vacant. The Revitalization Plan proposes the development of a wastewater treatment plant to accommodate the large volume of wastewater flow as a result of increases in residential and non-residential development envisioned in the hamlet plan and to connect legacy development.

In 2017, the Commission and the Town of Brookhaven contracted with the USGS to conduct a water resources monitoring program in the Central Pine Barrens including the surface waters of the Peconic River and Carmans River. The data collection efforts in Peconic River and Carmans River will provide insight to the scientific community, the Commission, and other agencies on the existing conditions and land use influences in surface and groundwater resources at various monitoring points in the region. The data will assist in informing policy and regulation where necessary to protect water resources.

#### **COMPATIBLE GROWTH AREA**

Local and County agency initiatives are currently underway that support the protection of water resources in the Compatible Growth Area. Programs include incentives to replace outdated individual on-site septic systems on residential properties with innovative alternative treatment systems. Other projects include studies on harmful algal blooms and watershed mapping to identify groundwater and surface water contributing areas and watersheds in the Central Pine Barrens.

#### **WATER QUALITY PLANS**

The Suffolk County Comprehensive Water Resources Management Plan (SCCWRMP), adopted in 2015, states, "It has been well documented that preservation of open space is the most effective means of protecting ground and surface water resources." According to the

County (Plan (2015), 38,000 acres of the 55,000 acre Core area are in public ownership. The Carmans River Conservation and Management Plan was adopted by the Town of Brookhaven in 2013 after the completion of a Generic Environmental Impact Statement (GEIS). It examined land use and water quality-related conditions in the watershed of the Carmans River. The plan resulted in, among other initiatives, the expansion of the Central Pine Barrens Core Preservation Area and Compatible Growth Area and conversion of some CGA land to Core area. Potential impacts in the Carmans River watershed identified in the GEIS may be alleviated by the expansion of Commission jurisdiction over new Core and CGA lands and requires Commission oversight over development in the expansion area, pursuant to the Act and the Plan. It aims to ensure water resources in the watershed are protected and the implementation of the Credit Program in the Core area.

### **Long Island Commission on Aquifer Protection**

Other current initiatives involving the review of water quality conditions in groundwater and surface water resources include the formation of the Long Island Commission on Aquifer Protection (LICAP) and the preparation of the Long Island Nitrogen Action Plan (LINAP). LICAP was created in 2013 through the passage of legislation in Nassau and Suffolk Counties. In 2015, LICAP prepared and completed the “State of the Aquifer” report and a Groundwater Resources Management Plan. In late 2017, LICAP completed and released for public comment the Draft Groundwater Resources Monitoring Plan. The groundwater plan identifies recommendations for the management of Long Island’s groundwater. Recommendations include investigating ways to further optimize pumping operations for wells near shorelines to minimize saltwater intrusion; developing a regional groundwater model; implementing of conservation pricing by public water suppliers; establishing guidelines for use of water by geothermal systems; actively remediating or strategically containing groundwater contamination plumes; and expanding the interactive database and website known as WaterTraq, among other objectives.

### **Long Island Nitrogen Action Plan**

LINAP is managed by agencies and entities including but not limited to, NYSDEC, the Long Island Regional Planning Council (LIRPC), Suffolk County and Nassau County. LINAP will develop a plan examining conditions and developing strategies to reduce the level of nitrogen in the surface and ground waters on Long Island. Mapping subwatersheds in Suffolk County is another task for LINAP.

### **LAND PRESERVATION AND ACQUISITION FOR WATER QUALITY PROTECTION**

According to the SCCWRMP (2015), “Suffolk County has purchased more than 53,000 acres of land over the past six decades at a cost of more than \$1 billion to preserve important environmental resources and significant ecological areas.” In addition, over 10,745 acres of agricultural land has been protected for continued agricultural use. Suffolk County’s purchase of development rights (PDR) program to protect farmland was started in

1974 and is the oldest in the Nation. In 2013, Suffolk County was the number one producer of agricultural products in New York State in terms of market value, with a market value generated of approximately \$240 million (\$273,693,592 in inflation-adjusted 2013 dollars) (SCDEDP, 2013). As of 2013, more than 162,500 acres or more than 25% of Suffolk County has been preserved, which includes 38,000 acres of the 55,000 acres of Core Preservation Area in the Central Pine Barrens (SCDHS, 2015).

Other land acquisition programs identified in the SCCWRMP as the most significant County open space acquisition programs moving forward include the New Drinking Water Protection Program, the Multifaceted Land Preservation Program, the Save Open Space Program, and the Environmental Legacy Program (SCDHS, 2015).

### **Transfer of Development Rights and Land Acquisition Programs**

Land preservation occurs in Suffolk County through a variety of programs including the transfer of development rights (TDR), the Suffolk County Drinking Water Protection Program (quarter percent sales tax land acquisition program), other County-sponsored programs, municipal Community Preservation Fund (CPF), New York State programs, miscellaneous municipal programs and private preservation programs. An inventory of existing TDR programs in Suffolk County was prepared in a report by the Suffolk County Department of Economic Development and Planning in 2014 (Suffolk County, 2014). Some of the programs identified in the report include, but are not limited to, the Suffolk County Sanitary Credits program to protect the integrity of the groundwater in locations where wastewater is discharged through on-site disposal systems; the Purchase of Development Rights (PDR) program for farmland preservation, which is the oldest of its kind in the United States; and the Pine Barrens Credit Program, established as a result of the New York State Legislature's adoption of the Long Island Pine Barrens Protection Act of 1993 (the Act) and the subsequent adoption of the Central Pine Barrens Comprehensive Land Use Plan in 1995.

The Pine Barrens Credit Program, managed by the Commission and operated by the advisory body, the Pine Barrens Credit Clearinghouse, supports the preservation of groundwater and ecological resources. The Credit Program facilitates the issuance of Pine Barrens Credits to an owner of land in the Core Preservation Area to transfer development outside of the Core and/or outside of the Central Pine Barrens region. In return the land owner can use the credits to increase units for a development project or to satisfy SCDHS sanitary requirements and requires a conservation easement be recorded with the Suffolk County Clerk's Office for their property.

In 1987, Suffolk County approved, by voter referendum, the Drinking Water Protection Program. It approved the use of one quarter of one percent of the county sales tax to purchase and preserve land in critical watershed areas. As part of this program, the County acquires lands in mapped and designated Special Groundwater Protection Areas (SGPAs) the development of which would be most likely to have an impact on existing or future

drinking water supplies (Jones and Corwin, 2010). Article XII of the Suffolk County Code (2015) describes the program in which it states, “Suffolk County Drinking Water Protection Program designed to provide funding for sewer district tax rate stabilization, environmental protection, and property tax mitigation is hereby extended in a modified form beginning on December 1, 2007, and ending on November 30, 2030” (SC Code, 2015).

The Community Preservation Fund (CPF) is derived from a two percent mortgage transfer tax. It was established in 1998 by local voter referendum in the five East End Towns of Riverhead, Southampton, East Hampton, Shelter Island, and Southold. The CPF required authorization by the New York State Legislature. The five East End Towns administer the CPF, which has resulted in hundreds of millions of dollars in funding for open space preservation in these municipalities. In 2006, voters in all five Towns approved a referendum to extend the collection of the tax through 2030 (PLT, 2015).

In 2015, the CPF program was extended through 2050. Amendments by the New York State Legislature allow 20 percent of the funds to be used toward water quality improvement projects. Implementing agencies have begun to utilize CPF water quality funds to assist homeowners with the cost of installation of alternative wastewater treatment systems. The CPF supports land acquisition efforts in the Central Pine Barrens region.

Other municipal programs can be found in Central and western Suffolk County Towns that do not have CPF programs. The Towns have established alternative funding sources for acquisition and preservation of open space. Towns have created significant programs include Brookhaven whose program includes major preservation efforts in the Carmans River Watershed. The Town of Brookhaven manages a robust acquisition program with the use of funds obtained through various fee programs and other sources including monetary penalties received from violations and enforcement cases.

New York State acquires and preserves open space on Long Island primarily in Suffolk County. In the last 10 to 15 years, significant new State parks and open space areas have been acquired either wholly by the State or through joint funding with Suffolk County and its Towns. The acquired and preserved properties are managed by the New York State Office of Parks, Recreation and Historic Preservation and the New York State Department of Environmental Conservation. Acquisitions include land in the Core Preservation Area of the Central Pine Barrens.

#### **D. POTENTIAL IMPACTS OF THE PLAN AMENDMENTS**

This section assesses the potential environmental impacts of the Plan Amendments to Chapters 4, 5, and 6 as they relate to water resources. The majority of amendments are ministerial in nature. The Amendments evaluated in further detail herein include:

##### Chapter 4

- *Section 4.5.5.1 Development of Regional Significance*

## Chapter 5

- *Section 5.3.3.1 Sanitary waste, Nitrate-Nitrogen and other chemicals of concern*
- *Section 5.3.3.3 Wellhead and Groundwater Protection*
- *Section 5.3.3.4 Wetlands, Surface Waters and Stormwater Runoff*
- *Standard 5.3.3.4.4 Reduction of Impervious Surfaces*
- *Standard 5.3.3.4.5 Natural recharge, drainage, and ponds*

## Chapter 6

- *Section 6.5.5 Permanency of Pine Barrens Credit Redemptions*

### **CORE PRESERVATION AREA**

In the Core, the goals and objectives remain the same to redirect development from the Core and facilitate acquisition where feasible to preserve the water resources of the Core. As in 1995, the Plan Amendments do not relax measures to protect resources. The Plan continues to protect water resources including groundwater and surface water quality and hydrologic functions of the Pine Barrens in the Core Preservation Area.

### **COMPATIBLE GROWTH AREA**

This section contains the Plan Amendments in Chapters 4, 5 and 6 relevant to the protection of water resources in the Compatible Growth Area.

### **CHAPTER 4: REVIEW PROCEDURES AND JURISDICTION**

#### *Section 4.3.10 Self-Heal Restoration, Self Restoration*

The Plan Amendments allow self-heal restoration, support minimizing fertilizer and irrigation requirements on development project sites, protect water resources and indigenous plant species in the Central Pine Barrens. Reducing runoff containing chemicals associated with fertilizer applications will reduce inputs that result in eutrophication, degraded water quality and excessive use of water for irrigation purposes as opposed to preservation for drinking water supply purposes.

#### *Section 4.5.5.1 Development of Regional Significance*

This section contains amendments that reflect existing and emerging issues achieving a threshold that defines a Development of Regional Significance (DRS). As it states in the Plan Amendments, large-scale development projects are likely to have regional impacts beyond the immediate project areas in which they are located. The Plan Amendments added review of development projects that propose to expose the subsurface groundwater table for uses other than public water supply to be defined as DRS that would require Commission



review and approval. Potential land uses in which this activity may occur include a wide range of uses such as commercial, industrial, institutional and governmental land uses that create a surface water area that meets or exceeds the three-acre threshold pursuant to the requirements of NYS ECL Article 23, Title 27 and its implementing regulations pertaining to Mine Land Reclamation. Lined ponds that do not expose subsurface groundwater are exempt from this provision.

Hydrogeological and hydrological subjects of concern have been identified where the creation of ponds exposing subsurface groundwater may result in impacts. Potential impacts include but are not limited to, evaporation, transport of airborne contaminants, temperature changes in groundwater and surface water that may extend to the aquifer and watersheds, and contamination entering the aquifer system through exposure of groundwater as a surface water feature. Public safety, enforcement and management of new surface water features are related matters of concern that need to be addressed. The amendment provides the Commission with jurisdiction to review and analyze potential adverse environmental impacts of such projects and to evaluate the consistency with the goals and objectives of the Act and the Plan. Beneficial impacts aimed at protecting resources are expected. No significant adverse environmental impacts will occur on the resources of the Central Pine Barrens as a result of the amendment.

Other amendments in the DRS section modify the number of residential units or the area of a mixed use project and are tied to the goals and objectives of the Act outlined in Sections 57-0121(2) and (4). The statute aims to, among other things, “protect the quality of surface and groundwaters;” “allow appropriate growth consistent with the natural resource goals of the Act;” “discourage piecemeal and scattered development;” and “encourage appropriate patterns of compatible residential, commercial, agricultural and industrial development in order to accommodate regional growth influences in an orderly way while protecting the pine barrens environment from the individual and cumulative adverse impacts thereof.”

Projects that achieve a DRS threshold may require closer examination of other environmental subjects to ensure development is accommodated in a manner consistent with the long-term integrity of the pine barrens ecosystem. The DRS definitions are akin to SEQRA thresholds that require assessment and evaluation to identify potential significant adverse environmental impacts. Since water resource protection is one of the two most prominent objectives stipulated by the Act, the Commission is responsible for continuing its oversight and protection of the region’s surface water and groundwater quality.

The proposed amendments do not result in adverse environmental impacts to water resources, are not burdensome on a development project, and continue to accommodate development in a compact, efficient, and orderly pattern while supporting the objectives of the Act.

## CHAPTER 5: STANDARDS AND GUIDELINES FOR LAND USE

### *Section 5.3.3.1 Sanitary waste, Nitrate-Nitrogen and other chemicals of Concern*

The amendments in this section are ministerial in nature. They aim to implement the Plan with more certainty and clarity, as originally intended, and to facilitate the goals and objectives of the Act.

The amendment to existing Guideline 5.3.3.1.5, Nitrate-nitrogen intends to require (instead of merely recommending) development projects to achieve a more protective goal of 2.5 ppm or an average residential density of one (1) unit per two (2) acres (or its non-residential equivalent) through clustering, or through other mechanisms to protect surface water quality. This may be achieved by requesting the applicant to submit information such as modeling the nitrogen concentration at the property limits to prove the goal is met. An application that is required to conform with this Guideline must demonstrate that wastewater discharged over a whole project site shall achieve no more than 2.5 mg/l nitrogen concentration in effluent.

No new requirements are proposed and therefore, no significant adverse impacts are expected as a result of this amendment.

#### *Section 5.3.3.3 Wellhead and Groundwater Protection*

This existing section was renamed to add the term “Groundwater Protection.” This ministerial amendment provides updated information and clarifies existing regulations. The regulations pertain to minimum separation distances required for public water supply wells in proximity to contaminant sources to protect these public water supplies from contamination. The additional language refers to existing State regulations. No new requirements are proposed and therefore, no significant adverse impacts are expected as a result of this amendment.

#### *Section 5.3.3.4 Wetlands, Surface Waters and Stormwater Runoff*

The amendments in this section are ministerial in nature. Similar themes are combined using existing standards in this section that pertain to continuing oversight where gaps in compliance presently exist and creating consistency in the review of development projects to include projects that are not subject to local municipal review.

Wetland habitats and surface waters are regulated by NYSDEC and, in some cases, local municipal zoning codes regulate wetlands. However, some projects, such as public corporations, schools, or utilities may not be subject to conformance with local regulations and are not required to obtain local permits and approval(s). In those cases, when the project site is in the CGA and the proposed activity constitutes development, pursuant to the definitions in the Act, the amendments allow the Commission to review the project and to identify existing wetlands, if any; to delineate wetland habitat(s) and to provide the opportunity to require the establishment of natural buffers on the project site to protect wetland habitat from disturbance. Wetland buffers also reduce potential impacts associated with stormwater runoff and erosion from land development in the Central Pine Barrens.

Since the amendments are ministerial in nature, they will not result in any significant impacts to water resources. The Amendments that affect wetlands and surface waters not subject to municipal review are limited in scope and therefore no significant adverse impacts are anticipated to water resources.

*Standard 5.3.3.4.4 Reduction of Impervious Surfaces*

This is a new standard in the Plan. The intent of this amendment is to work in coordination with the open space standard. This Plan Amendment requires development project sites that are extensively cleared and contain existing large areas of impervious surfaces that do not conform with the Plan's clearing and open space standards due to their prior use or development (e.g., former box store or movie theater sites) and that predate the Act, to conform with the Plan's standard for open space. Impervious surfaces reduce the infiltration rate of precipitation into ground water and accelerate runoff that carries contaminants and soil sediments to surface water bodies such as streams, rivers, lakes and ponds and to recharge basins.

Hard, dry surfaces such as roofs, sidewalks, roads, buildings, and parking lots provide less shade and moisture than natural landscapes and therefore contribute to higher temperatures potentially in runoff that could impact nearby streams and other water bodies and potentially increase the presence of non-native species that prefer warmer areas. Trees, vegetation, and water bodies tend to cool the air by providing shade, transpiring water from plant leaves, and evaporating surface water, respectively. The intent of this standard is to provide greater protection of the natural resources in the CGA by reducing the potentially adverse impacts of large impervious surface areas by restoring natural vegetation to the site that would serve as open space.

The revegetation of these sites will improve the ability of precipitation to infiltrate into ground water, reduce contaminant transport and reduce higher temperatures associated with impervious pavement. The amendment requires the development project site to conform with the applicable open space standard by allowing the site to revegetate back using the self-heal process if viable instead of plantings and may require the removal of pre-existing concrete or asphalt surfaces to meet this requirement. The standard aims for the Plan to continue to implement the goals and objectives of the Plan and the Act. There are no significant adverse impacts anticipated to water resources due to this Amendment and instead there will be a beneficial impact to water resources as discussed in this section.

*Standard 5.3.3.4.5 Natural recharge, drainage, and ponds*

This is a new standard that combines the objectives of existing standards in Section 5.3.3.4 Wetlands, surface waters, and stormwater runoff. The amendments are ministerial in nature and allow natural recharge areas and/or drainage system designs that cause minimal disturbance of native vegetation and preserve native habitat to be employed where practical. The amendments support projects that reduce the removal of natural vegetation

for the creation of recharge basins and ponds for drainage areas. Utilizing natural drainage areas in project designs minimizes disturbance to habitat while achieving the goal of controlling stormwater runoff.

No new requirements are proposed and therefore, no significant adverse impacts are expected as a result of this amendment.

#### CHAPTER 6: PINE BARRENS CREDIT PROGRAM

The amendments in Chapter 6 are generally ministerial in nature. The amendments include minor word edits, clarifying the Credit appeal process, establish public hearing notification requirements and define hearing procedures.

##### *SECTION 6.5.5 PERMANENCY OF PINE BARRENS CREDIT REDEMPTIONS*

This new section confirms the Commission’s policy that PBC redemptions are permanent and cannot be returned once a use ceases to exist. The impact on water resources when a PBC is redeemed (e.g., adding seats in a restaurant that increases the sewage flow) should occur only once and cannot be reversed or re-occur when a wastewater input from a change in land use occurs. The increase in land use density or intensity accompanied by a PBC is considered retired once it is processed for a land use development project that generates wastewater related to land use.

No new requirements are proposed and therefore, no significant adverse impacts are expected to water resources as a result of this amendment.

#### **SUMMARY**

No adverse impacts will occur to water resources as a result of the Plan Amendments. The amendments provide for greater protection of the water resources of the Central Pine Barrens.

#### CONSISTENCY WITH SUFFOLK COUNTY COMPREHENSIVE WATER RESOURCES PLAN

The impetus for the amendments and the beneficial impacts of the amendments are consistent with the findings of Suffolk County’s Comprehensive Water Resources Plan to protect and work toward water quality improvements and avoid impairment of water bodies and water resources. The amendments aim to provide greater protection of water resources in the Central Pine Barrens and support County-wide efforts to be more protective of resources while avoiding adverse environmental impacts to surface and groundwater resources.

#### **E. MITIGATION MEASURES**

The Pine Barrens Credit program continues to serve as a mitigation measure that protects

water resources by transferring development and its associated sanitary wastewater from the Core to the CGA and to areas outside of the Central Pine Barrens which preserves land in the Core and requires redemptions in the CGA to meet SCDHS requirements. In 2019, the Town of Brookhaven made changes to their zoning code that requires the use of Pine Barrens Credits to increase the number of units (density) or intensity of development above what is allowed under zoning for larger-scaled development projects which are required to meet SCDHS requirements for sanitary wastewater. The Credit program and town code changes promote compact, efficient, and orderly development in the CGA in accordance with the Act by reducing road coverage, utilities and other infrastructure; by reducing traffic, the clearing of natural vegetation and habitats and by reducing impacts to school districts.

Development that increases land use intensity and density should be required to redeem Pine Barrens Credits to protect water and other natural resources of the pine barrens. No significant adverse impacts to water resources from the adoption and implementation of the Plan amendments are anticipated to occur since most of the amendments are ministerial in nature.

**A. INTRODUCTION**

This chapter reviews the goals and objectives for geological resources in the Central Pine Barrens. It discusses the Plan Amendments and identifies the potential impacts, if any, the Amendments may have on geological resources in the Core Preservation Area and the Compatible Growth Area (CGA) of the Central Pine Barrens that may result from their adoption and implementation.

Volume 2 of the Plan described glacial features which can be found in the Central Pine Barrens including moraines, outwash plains and geologic deposits, kettle holes, kames, and swale areas. Soil associations found in the Central Pine Barrens area are described in the Plan including four distinct types: Haven-Riverhead Association; Plymouth-Carver Association, Rolling and Hilly; Riverhead-Plymouth-Carver Association, and Plymouth Carver Association, Nearly Level and Undulating.

Soil resources in the Central Pine Barrens area include prime agricultural soils on previously cleared land and soil types associated with a high-water table and environmentally-sensitive wetland habitats including tidal marsh ecosystems. The Plan identified native vegetation that can be found within specific soil associations. Soils in low lying areas near streams and drainageways, ponds, or marshes, where high water tables are present have severe use limitations. Groundwater contamination may exist from cesspool and septic tank effluent.

The Plan Amendments are not expected to result in impacts on soils and geologic features in the Central Pine Barrens region. The Amendments provide for greater protection of the soil resources of the Central Pine Barrens and support the preservation of existing soils and natural topography on development project sites. Continuing land preservation goals and efforts and redirecting development from the Core will promote the protection of geological features in the Core. The standards and guidelines for development in the Plan continue to support the protection of geologic resources in the Compatible Growth Area.

**B. GEOLOGICAL RESOURCES****1994 GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS), 1995 SUPPLEMENTAL DGEIS, AND FINDINGS STATEMENT**

The 1995 SEQRA record substantiates the environmental sensitivity and vulnerability of certain soils within the Central Pine Barrens due to their high permeability and low fertility and/or high-water table. Through its implementation, the Plan supports the protection of

soil and geologic resources in the Core by prohibiting new development, promoting land acquisition in this area and redirecting development from this area through the operation of the Pine Barrens Credit Program; however, these resources may be incrementally impacted in the non-Core areas. The Standards and Guidelines for Land Use in Chapter 5 were designed to help mitigate potential impacts to these resources. The designation of two CRAs containing steep slopes was determined to mitigate the impacts of the 1995 Plan.

## **1995 GEIS SUMMARY**

### *CORE PRESERVATION AREA*

The 1995 GEIS discussed how the acquisition of the fee interest of Core parcels could potentially reduce the total number of Pine Barrens Credits (PBCs) that would be transferred from the Core to non-Core areas. This will reduce the incremental increase in development in receiving areas attributable to the Plan and help protect geologic resources.

The GEIS also discussed how, in the Core, all moraines, outwash plains, recent deposits, kettleholes and kames will be preserved in an undisturbed state in this region since no new development will be re-directed from this area.

### *NON-CORE*

For non-Core areas the GEIS discussed how increased development density or intensity was anticipated to occur in receiving areas in the three Towns. However, it would only affect the surface topography to some extent. Some of the areas within the Town of Brookhaven outside of the Central Pine Barrens that anticipated to be affected by the Plan contain some portions of the Ronkonkoma terminal moraine, but most affected areas would be within the flatter outwash plains.

Non-Core areas in the Town of Riverhead that would be affected by the Plan are generally outwash plains whereas, non-Core areas in the Town of Southampton's include both Ronkonkoma terminal and ground moraine features as well as outwash plains.

The Standards for Land Use in the 1995 Plan state that all land clearing and construction should be confined to sites where slopes are no greater than 15%. Where development occurs in steeply sloped areas, erosion and sediment control plans are required. Activities associated with land use development in the CGA including excavation for roads, foundations, water lines, drainage and sanitary facilities, were not expected to be extensive nor result in a significant adverse impact on geology.

Agricultural and horticultural uses were supported in areas with prime soils with clustering on areas of poorest soils. However, compliance with clearing provisions was still required and agricultural uses were encouraged to employ best management practices. The Plan's policies and standards were expected to have minimal impacts on prime agricultural soils in

the CGA as a result of these provisions.

The GEIS indicated that although future development would modify the surface landscape to some extent, unique geological features and slopes greater than 15% would be preserved by confining land clearing and construction to areas of sites where slopes were 15% or less grade. Therefore, no significant adverse impacts to topographic features were anticipated in the CGA. Prominent topographic features such as hills and swales, would be retained. Unique geological formations including kettleholes and kames were identified to determine the locations of critical resource areas within the CGA.

## **C. EXISTING CONDITIONS**

### **CORE PRESERVATION AREA**

Existing natural soils, geology, and topography continue generally as they did when the Plan was adopted in 1995 since development in the Core is prohibited with limited exceptions. The exceptions include the development of parcels on the residential roadfront exemption list and development in accordance with hardship waivers granted by the Commission.

Since 1993, the Commission has granted 61 Core hardship waivers including:

- 34 in the Town of Brookhaven
- 4 in the Town of Riverhead
- 23 in the Town of Southampton

In the Core Preservation Area, an estimated 5,000 acres are developed, 49,000 acres are protected by public agencies and/or in conservation easements. An estimated 2,000 acres remain unprotected with potential development rights intact.

### **COMPATIBLE GROWTH AREA**

The CGA contains soils of high permeability and low fertility and/or a high water table. Soil resources have been incrementally impacted in the CGA by disturbance, development, and the direct loss or removal of soils, geology, and topographic features from project sites. Implementation of Chapter 5 Standards and Guidelines for Land Use preserve a significant portion of the region's natural resources including soils, geology, and topography.

The Plan designated some Critical Resource Areas (CRAs) in the CGA to include areas with geologic features such as steep slopes that are worthy of review and protection in the event development activity was proposed. Some CRAs have been protected since 1995 through Plan acquisitions by public agencies including Suffolk County.

When a development project is proposed in a CRA, the applicant must submit a CRA application for Commission review of the project's conformance with Standards and



Guidelines. Guidelines in the Plan in Section 5.3.3.8 cover the protection of steep slopes and erosion control and therefore mitigate impacts to soil and topographic resources. It has been the case where “non-development” activity occurs in a CRA that the Commission has not directly reviewed the proposed activity.

#### **D. POTENTIAL IMPACTS OF THE PLAN AMENDMENTS**

This section evaluates the potential impacts of the Plan Amendments proposed in Chapters 4, 5, and 6. The amendments primarily consist of ministerial changes such as the addition of a term or word for clarity and reflect current practice of the Commission as established by past decisions and resolutions. The remaining amendments seek to clarify the implementation process and apply the provisions of the Act as they were originally intended to protect the resources of the Central Pine Barrens. The Amendments provide for greater protection of the natural resources of the Central Pine Barrens.

#### **CORE PRESERVATION AREA**

In the Core, the goals and objectives remain the same, to redirect development from the Core and facilitate acquisition where feasible to preserve the soil and geologic resources of the Core. As in 1995, the Plan Amendments do not relax measures to protect resources. The Plan continues to protect geologic resources including, but not limited to, soils of high permeability and low fertility and/or those that contain a high water table, along with topographic features in the Core.

#### **COMPATIBLE GROWTH AREA**

This section contains the Plan Amendments in Chapters 4, 5 and 6 relevant to the protection of geologic resources in the Compatible Growth Area.

#### *CHAPTER 4: REVIEW PROCEDURES*

The Plan Amendments are generally ministerial in nature. Where new sections or provisions are proposed, the amendments seek to support existing provisions to protect resources and to continue to be consistent with the goals and objectives of the Act.

#### *Section 4.5.4 Critical Resource Areas*

No new Critical Resource Areas (CRAs) are identified in the Plan Amendments. The amendments to this section are ministerial. They are administrative amendments to simply update the list of CRAs with ownership information where it is known or changed since 1995. The ownership of CRAs acquired since the 1995 Plan by public agencies and entities is identified in the amendments.

The Act sets forth jurisdiction for the Commission’s review of development within the

Compatible Growth Area of the Central Pine Barens. Such review includes development activity, as defined by the Act, located in a Critical Resource Area. The Act also authorizes the Commission, by majority vote, to waive strict compliance with the Plan upon a finding that such waiver is necessary to alleviate a demonstrated hardship.

The Commission's review is limited to compliance with the standards and guidelines set forth in Volume 1, Chapter 5 of the Plan and the protection for the critical resource features designated in the Plan. Development projects in private, unprotected CRAs will continue in with the current process to submit applications to the Commission review for conformance with the standards and guidelines outlined in Chapter 5 of the Plan. This requirement helps to protect significant geological resources identified in the Plan such as soils, topography, ravines, steep slopes, and other natural resources. No significant environmental impacts will occur to soils and topography in CRAs that were not previously contemplated in the 1995 DGEIS.

*Section 4.5.5 Developments of Regional Significance located within the Compatible Growth Area ("DRS development")*

The amendments to this existing section reflect emerging and regionally significant project types of a size and scale that are becoming more common in the CGA landscape. The amendments include a new DRS category of projects that involve the excavation of soil material which exposes groundwater resources.

Soils and topography may be adversely impacted by development projects that expose the subsurface groundwater table for uses other than public water supply. Projects that involve this type of activity require the Commission's review for conformance with standards and guidelines and require the Commission's approval. As for any project, a DRS application would be subject to review in accordance with the SEQRA regulations. A determination of significance is required, and it would be expected to identify and evaluate potential adverse environmental impacts, if any, including but not limited to, impacts on soil, geology, and topography.

Excavation activities that expose water resources are expected to significantly disturb existing soils and topography including steep slopes. Projects may require the removal or the direct, net loss of soil and geologic material from a project site. Natural slopes and topographic features on a project site are adversely impacted directly and irreversibly when a site is excavated and regraded.

In some cases, where significant soil removal has occurred and water resources are exposed, it has resulted in large surface water features with steep and potentially unstable slopes, with significant erosion, runoff and safety hazards that may affect surrounding neighborhoods, property, and developed communities. It is necessary to examine potential impacts from water table exposure to public health, safety, and security, groundwater quality and quantity, and long-term requirements including the maintenance, management,

and protection of large ponds and lakes created on development project sites.

The amendment requires a DRS level of review to determine conformance with standards and guidelines for development projects that create ponds, lakes, or other surface water features. Requiring DRS review may result in beneficial effects such as the preservation of soil and topographic resources that could otherwise be lost or potentially adversely impacted by this type of development. This amendment may affect the review of land use projects that excavate material to construct unlined ponds such as in sand and gravel mines or other similar projects. The disturbance and removal of soil resources results in erosion and a direct loss of habitat and natural features disrupting natural processes in the region. The protection of soil material in the region, in turn, supports indigenous species and ecosystems. In forested habitats, research has demonstrated that soils contribute to regulating temperature and humidity in the forest.

No significant adverse impacts are expected on geology, soils, and topography as a result of this amendment. On the contrary, the amendment is expected to benefit and protect existing natural soil resources and topographic and geologic features in the region. If a development project does not conform to the standards and guidelines of the Plan, the project may be revised to conform or the applicant may seek a CGA hardship waiver.

#### *Section 4.3.10 Self-Heal Restoration, Self Restoration*

This new section adds a term, “self-heal restoration” to the Plan that refers to a process of revegetation that may occur on a project site. Allowing “self-heal” restoration will preserve soil, geology, and topography in the Central Pine Barrens region. Opportunities for “self-heal” may occur on a development project site that has not been subjected to excess grading and disturbance activities and where redevelopment is proposed. The amendment encourages self-heal restoration to utilize the existing native seed bank, roots, and rhizomes of natural pine barrens vegetation in the soil to naturally and passively recolonize the disturbed area and regenerate a pine barrens ecosystem. This approach supports the preservation of soils, native vegetation and associated ecological communities and reduces the importation of potentially contaminated or non-native soil and non-indigenous nursery stock and therefore reduces potential impacts to geological resources. Self-heal restoration also minimizes cost, energy, maintenance, and other efforts that would be involved in active planting and restoration.

The self-heal restoration standard recognizes that intact soils contain a significant amount of natural material that can be effectively reused to recolonize a project site. Taking advantage of the presence of this material and supporting its proliferation protects indigenous plant material in the region and reduces energy, expense, and the importation of non-indigenous plant material when a redevelopment project occurs.

In the case of redeveloping an existing developed site, where 100% of the site is developed with buildings and/or asphalt parking area, the open space standard will apply as proposed

by a new Plan amendment 5.3.3.4.4 Reduction of Impervious Surfaces. Conformance is achieved by setting aside the required amount of unfragmented open space. The existing disturbed area or coverage type will be allowed to self-heal as discussed above or will require active modifications and assistance such as planting to support its restoration.

#### *CHAPTER 5: STANDARDS AND GUIDELINES FOR LAND USE*

##### *Standard 5.3.3.4.1 Nondisturbance buffers*

The amendments to this existing standard allow the Commission to require stricter and larger nondisturbance buffers. In addition, where wetlands are not regulated by NYSDEC or the local municipality, the Commission shall oversee wetland delineations, identify adjacent areas, and establish natural buffer widths comparable to the NYSDEC regulations. The proposed amendment affords protection to isolated vernal ponds or other unknown and unmapped wetlands that may be discovered during the review process of a development project.

The amendment provides for greater protection of wetland soils and habitat that may exist on a project site that have not been previously identified or mapped. No adverse impacts are expected as a result of this amendment to geologic resources.

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

Where an agricultural land use exists and redevelopment or a change in use is proposed that constitutes development as defined by the Act, the amendments aim to preserve a portion of the agricultural activity and resources, particularly prime agricultural soils in an agricultural reserve area. The amendments support the preservation of agricultural reserves on farms that are proposed to be converted to other land uses such as residential subdivisions, mixed uses, or non-residential land uses. Applying the open space standard provides the opportunity to set aside an agricultural reserve, where applicable, to protect this significant cultural heritage feature in the region and prosperous farming activity for current and future generations.

Similarly, on sites that contain natural vegetation, the open space standard confirms past practice in setting aside a specific amount of open space to protect soil characteristics, soil types, ground cover, and other natural resources in the CGA. No significant environmental impacts are anticipated to geologic resources since this proposed amendment supports the protection of these resources

##### *Figure 5-1: Clearance and open space standards*

Where clearing is proposed to accommodate a development project, typically soil resources and topographic features are removed or altered to suit the project. As discussed in the Plan, soils indigenous to the region support plant and wildlife habitat in the Central Pine

Barrens. Over time, modifying soil characteristics will change pine barrens ecosystems.

Disturbance to slopes and topography may result in erosion, stormwater runoff and the loss of soils that support the growth of native plants. This may lead to the introduction and proliferation of invasive and non-native species. Disturbed roadsides and other sites demonstrate of this pattern of natural habitat loss and the distinct composition of a natural and native ecological community including soils, geology and topographic features.

The clearing and open space standards quantify the amount of open space to be preserved and the amount of clearing that is permitted for development projects. These standards clearly require preserved open space areas even on sites presently overcleared or entirely cleared. The standard aims to protect existing soils and topography, preserving existing natural resources and features in the Central Pine Barrens. The standard allows a site to undergo natural succession, and in some cases will be enhanced by native restoration.

The proposed amendments are more protective than the existing standards on those development project sites that are currently overcleared or entirely cleared. On those sites that are currently in a natural state, the requirements for clearing and open space remain the same. The proposed amendments provide for greater protection of the natural resources including geological resources of the Central Pine Barrens and more clearly represent the intent of the Compatible Growth Area to serve as a buffer to the Core Preservation Area in all environmental subjects. No adverse impacts to geological resources are expected as a result of this amendment.

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

This section, previously known as “Natural vegetation and plant habitat” has been amended with a new title and extended preamble to explain the importance of conservation design principles.

No change is proposed that will adversely impact soil characteristics and geologic features such as where prime agricultural soils exist or topographic features are present. The amendments protect soil resources and natural topography. The Plan Amendments aim to continue to advance the Act to support and protect culturally important agricultural activities in the Central Pine Barrens. The presence of prime agricultural soils, natural slopes and other geologic features on development project sites are considered in a project’s open space requirement.

Standard 5.3.3.6.2 was significantly amended to update the preamble discussion of the order of priority when configuring open space on a project site. The amendments address protection of significant topographic features when prioritizing open space including but not limited to steep slopes, kettleholes, drumlins and kames.

New Standards 5.3.3.6.5 through 5.3.3.6.7 apply to the protection of open space and

invasive plant species mitigation discussed in greater detail below. This section of the Plan supports the preservation of soil resources, topographic features, and agricultural resources in the Central Pine Barrens. The open space standard will protect existing agricultural resources including prime soils and agricultural activities when present on a project site. It encourages the preservation of existing soils and agricultural use(s) on a project site in an agricultural reserve established by the recording of an agricultural easement if a development project proposes to convert the land use of project site that is actively cultivated to a non-agricultural land use.

The amendments provide for greater protection of the natural geological resources of the Central Pine Barrens. No adverse impacts are expected to geological resources as a result of the amendments to this Section.

*Standard 5.3.3.6.7 Invasive Species Mitigation*

This new Standard allows an applicant to remove a maximum area of two (2) acres containing invasive species on a development project site. Conformance with this standard requires submission of a restoration plan with monitoring and maintenance obligations. No disturbance to existing natural vegetation, native habitat or other features including soils, geology, and topography is permitted when the activity is undertaken. Stormwater and erosion control measures must be employed during invasive species removal activities to ensure protection of soils, geology, and topography on a project site and adjacent properties. Implementation of an invasive species mitigation plan aims to reduce the proliferation of invasive species and the ecosystem changes that occur when invasive species are left to survive and thrive in the Central Pine Barrens.

The amendment provides for greater protection of the natural resources of the Central Pine Barrens including geological resources. No adverse impacts are expected to geological resources as a result of this amendment.

*CHAPTER 6: PINE BARRENS CREDIT PROGRAM*

The Chapter 6 amendments are ministerial and relate to credit redemptions and the PBC program process. One amendment that indirectly relates to the protection of soils in the Core is the prohibition of PBC redemptions on Core project sites, a practice contrary to the Plan's objective.

*Section 6.5.6 Redemption of Pine Barrens Credits within the Core Preservation Area prohibited*

The new section will indirectly protect and benefit the soil resources of the Core Preservation Area since it prohibits the redemption of Credits in the Core. The Credit Program redirects development from the Core. Development may involve disturbance, removal, and loss of soils that may result in adverse impacts on geological resources in the

Central Pine Barrens. Since the Core is designed as a sending area for development, it is contrary to the intent of the Act and the Plan to receive development Credits in the Core that would permit an increase in land use density or intensity. Therefore, this amendment reinforces the intent of and is consistent with the Plan and the Act.

When implemented, this provision will benefit the resources of the Core. No adverse environmental impacts to geological resources are expected as a result of this amendment.

#### **SUMMARY**

No adverse impacts will occur to geological resources, soils and topography as a result of the Plan Amendments. The amendments provide for greater protection of the natural resources of the Central Pine Barrens.

#### **E. MITIGATION MEASURES**

No mitigation measures will be necessary for the Plan Amendments since they are largely ministerial in nature and are not expected to significantly impact soils and geologic features in the Central Pine Barrens region. The amendments that include new or enhanced standards provide for greater protection of the natural resources of the Central Pine Barrens, including geological resources. They are consistent with and reinforce the direction of the Act and the Plan.

**A. INTRODUCTION**

This chapter reviews the goals and objectives for scenic, historic and cultural resources in the Central Pine Barrens. It discusses the Plan Amendments and identifies potential impacts, if any, the Plan Amendments may have on scenic, historic and cultural resources in the Core Preservation Area and the Compatible Growth Area, which may result from their adoption and implementation.

The Amendments that affect scenic, historic and cultural resources are minor in nature. The Amendments aim to continue to achieve the goals and objectives of the Act and the Plan 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.

New provisions include amendments to control light pollution, protect the night sky while conserving energy and that define tall structures. The Amendments provide the opportunity to enhance the protection of Central Pine Barrens scenic, historic and cultural resources.

**B. SCENIC, HISTORIC AND CULTURAL RESOURCES****1994 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS), 1995 SUPPLEMENTAL DGEIS, AND FINDINGS STATEMENT***SCENIC RESOURCES AND OPEN SPACES*

Scenic resources are those landscape patterns and features which are visually or aesthetically pleasing and therefore contribute affirmatively to the definition of a distinct community or region. The preservation of scenic resources and open space in the Central Pine Barrens enhances quality of life and encourages tourism and recreational industries resulting in a positive economic benefit.

Good planning strategies encourage identifying an area with a “sense of place” to strengthen community character, develop a desirable location to live in, and reflect the nature of past, present and future values. Reinforcing a community’s identity and celebrating its character support and promote economic activity in the region and the enjoyment and experiences of residents and visitors alike.

*HISTORIC AND CULTURAL RESOURCES*

The Central Pine Barrens region encompasses areas with significant historic, cultural and



archeological resources, registered structures and sites. No national or natural landmarks are present in the Central Pine Barrens. Volume 2 of the Plan, Chapter 7: Cultural Resources: Historic and Archaeological, provided an overview of cultural history and resources in the Central Pine Barrens. The presence of important resources is documented. It was determined that the Plan's implementation would further enhance the protection of these resources while not hindering or diminishing the existing powers of governmental agencies charged with their protection.

Historically, the region has been an important center of viable agricultural-related activities including cranberry cultivation in the early 1900s. Commercial cranberry production peaked in the 1920s and ended in 1976. Wild berry harvesting also occurred in the region in the mid-1800s when the trade in wild blackberries alone, which began in Selden in 1856, produced over 100,000 quarts in 1858. Berry harvests included wild cranberries, blueberries, huckleberries and blackberries. During the 19th century, cordwood became a major commodity from Suffolk County. By the 1810s, Brookhaven exported over 100,000 cords of wood per year (Barren and Waste Land exhibit, 1990).

#### *CORE PRESERVATION AREA*

The goals and objectives of the Act and the Plan were in part to preserve the Core Preservation Area's cultural, historic and scenic resources by preventing further development. Achieving the 75% acquisition goal for undeveloped private Core land with the exception of statutory exemptions and hardship waivers supports this goal.

As stated in the SEQRA record, impacts on open spaces and scenic resources would also be mitigated through the creation of the contiguous Core preserve, according to the Act, which restricts further development in the Core area.

#### *NON-CORE*

Volume 2 provides an overview of cultural resources in the Central Pine Barrens. Greater public awareness of the importance of these resources may lead to greater protection, public interest and concern, which in turn may lead to increased public advocacy for their protection in the long-term. The summary of programs and regulations provides a listing of contacts for preservation programs and tools for fostering and actually implementing preservation.

In the CGA, the Standards and Guidelines for Land Use were anticipated to minimize adverse impacts on historic, cultural and scenic resources. Scenic vistas and open spaces would be enhanced by the application of clustering provisions, site clearance requirements, building envelope guidelines, slope analysis requirements, the use of vegetative buffers, and the protection of scenic corridors and unfragmented open space requirements.

It was noted in the SEQRA record that cultural resources outside of the Central Pine Barrens may be impacted by the incremental increase in development that may occur when

there is a transfer of Pine Barrens Credits to increase density such as additional housing units in development projects. This would not include areas or sites that may be subject to existing regulations directed at cultural resource protection.

### **C. EXISTING CONDITIONS**

Most development projects in the CGA are reviewed by the Towns and do not achieve a threshold that requires direct review by the Commission. Guidelines are advisory in their applicability unless the project rises to a certain scale requiring direct Commission review. In the case of a development project directly reviewed by the Commission such as an Assertion of Jurisdiction, CRA, or DRS, the project must conform with Guidelines including those that pertain to the protection of scenic, cultural and historic resources. Application review is coordinated with the New York State Office of Parks Recreation and Historic Preservation. The Commission seeks comments from the State Historic Preservation Office (SHPO) on a project's potential adverse impacts to cultural and archaeological resources. Recommendations or conclusions from the SHPO are incorporated into Commission decisions.

The guidelines outlined in Chapter 5 of the Plan were anticipated to be responsive to a project's potential impacts on existing scenic resources including, but not limited to, roads, vistas and trail corridors. Guidelines also consider an accounting of and provide protection measures for cultural resources including archaeological areas and historic districts and sites. When applicable, the GEIS stated, "development proposals in the CGA shall account for, review and provide the maximum possible protection for active and passive recreational sties, scenic corridors, roads, vistas, and viewpoints, sties of historic or cultural significance, and sensitive archaeological areas. A development proposal may be disapproved if it is determined to have a significant impact on any scenic, historic or cultural resource."

Useful design guidelines for sites that utilize Pine Barrens Credits and other development project sites in the CGA were developed and outlined in Volume 2, Chapter 14 "Suggested Design Guidelines for Pine Barrens Credit Use Areas." This chapter contains model guidelines suggested for project planning and design elements including open space, buildings/setbacks, parking, signage, drainage areas and roads.

### **SCENIC RESOURCES**

Volume 2, Chapter 8 of the Plan defines and identifies scenic resources in the Central Pine Barrens. When a development project application is under review, the project site location is checked for the presence of scenic resources. Although the Act refers to cultural resource protection, the Plan is limited in the extent to which consideration is given to protect scenic resources when a development project is under review. Guidelines that pertain to the protection of scenic resources are applied in development projects defined as Developments of Regional Significance, Critical Resource Areas and Assertions of Jurisdiction.

Existing scenic resources listed in the Plan have been photographed for posterity. These include, but are not limited to, publicly preserved lands, scenic views of road corridors that are significantly naturally vegetated and wide expanses of natural open spaces visible from topographically high morainal peaks.

## **CULTURAL RESOURCES**

Volume 2 defines and identifies cultural resources in the Central Pine Barrens. Although cultural resources in the region have been identified, over time, some cultural resources have been removed. Other than coordination of development projects with the New York State Historic Preservation Office (SHPO) during the SEQRA process, no stringent rules exist to preserve existing cultural resources particularly if the site is not on the National Register of Historic Places, if it has no other protection and recognition, or if a property owner and/or project applicant is unaware of a site of potential cultural resource significance, unable or unwilling to protect it. However, large scale development projects typically undertake archaeological surveys involving documentation and field surveys to identify the presence or absence of artifacts. And in cases where archaeological surveys reveal the presence of remains, settlements or cemeteries of Native American or Indian Nations However, for example, such sites are typically afforded protection.

The SHPO office states, “Archeology is also a key component of historic preservation environmental review. State and National Registers listed and eligible resources receive a measure of protection whenever state and federal agencies fund, license or approve projects in New York State. Under Section 106 of the National Historic Preservation Act and Section 14.09 of the New York State Historic Preservation Act, the State Historic Preservation Office (SHPO) strives to ensure that effects or impacts on eligible or listed properties, including archeological sites, are considered and avoidance or mitigation measures are developed during the project planning process. The SHPO also provides archeological assistance to numerous state and federal agencies and offers archeological guidance and recommendations to local municipalities upon request.”

Continued efforts are underway by the Commission office to research and gather supporting documentation, to map and photograph resources identified in the Plan. Section 57-0121 of the Act directs the Plan to “preserve and maintain the essential character of the existing Pine Barrens environment,” and the preservation, restoration and management of such resources are important goals of the Act and the Plan.

## **D. POTENTIAL IMPACTS OF THE PLAN AMENDMENTS**

### **OVERVIEW**

The Plan Amendments are generally ministerial in nature and their origin is based on the Act. The goals and objectives of the Act seek 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. Preservation of scenic viewsheds

and cultural resources are identified as primary goals in the Act and the Plan, as is maintaining the essential character of the region.

### **CORE PRESERVATION AREA**

In the Core, the goals and objectives remain the same, to redirect development from the Core and facilitate acquisition where feasible to preserve the resources of the Core. As in 1995, the Plan Amendments do not relax measures to protect resources. The Plan continues to protect Pine Barrens environments which contain unique and significant cultural, scenic, ecologic, hydrogeologic, among other resources representative of such environments.

### **COMPATIBLE GROWTH AREA**

This section contains the Plan amendments in Chapters 4, 5 and 6 relevant to the protection of scenic, historic, and cultural resources in the Compatible Growth Area.

Applications submitted directly to the Commission for review such as Hardship Waivers, Assertions, CRAs, or DRS applications are coordinated with the New York State Office of Parks, Recreation, and Historic Preservation during the SEQRA process. The New York State Historic Preservation Office (SHPO) identifies potential impacts a project may have on cultural and archaeological resources.

Only the amendments that may have direct affects including beneficial impacts on scenic, historic and cultural resources are covered herein. The goals and objectives of the Act and Plan are broad and relate to protection of the essential character of the region.

Indirect impacts to scenic and cultural resources occur through potentially minor changes in the developed landscape including, but not limited to, sign design and installation, architectural and structural features, and other built elements. The changes may seem subtle until the cumulative impact of many subtle changes becomes evident. Although the Plan generally calls attention to the importance of considering impacts to scenic and cultural resources, specific design elements, colors, materials, structure sizes, and other development and planning aspects of a project are generally left to be regulated by the Town zoning codes. Most development projects in the CGA do not rise to the level of DRS, CRA, or Assertion of Jurisdiction review that would require direct Commission review and require a project's compliance with the Guidelines that pertain to the protection of scenic and cultural resources. As a result, the Towns in the Central Pine Barrens region have a greater role in recognizing the significant and unique cultural features and resources in the region that make it unique and worthy of continued long-term protection. Local regulations have greater influence and opportunity to establish oversight and design guidelines, where feasible, that emphasize preservation of representative features in the landscape and resources that protect the region's character when designing, planning, and approving development projects in the CGA.

## CHAPTER 4: REVIEW PROCEDURES AND JURISDICTION

Amendments that pertain to Developments of Regional Significance may affect scenic, historic, and cultural resources depending on a development project site's location and specific features or constraints. A site's scenic, historic and cultural resources may be affected by a DRS project involving residential, commercial or mixed uses or one that proposes a surface water feature.

### *Section 4.3.10 Tall Structure*

An applicant proposing a DRS level project is required to submit a DRS application to the Commission that addresses the project's conformity with standards and guidelines including the guidelines for scenic, historic and cultural resource protection.

Adding a definition of tall structure in the Plan Amendments provides the Commission with an opportunity to protect scenic, historic and cultural resources and to ensure impacts to views in the Central Pine Barrens are protected while accommodating compact, efficient, and orderly development in the region.

No adverse impacts are expected as a result of this amendment. The term is used in an amendment in Chapter 5, Guideline 5.3.3.11.1 Tall Structures and Scenic Resources as discussed in the next section.

## CHAPTER 5: STANDARDS AND GUIDELINES FOR LAND USE

The Guidelines in Chapter 5 that pertain to scenic, cultural and historic resources are applied to a limited set of development projects that are directly reviewed by the Commission including Hardship Waivers, Assertions of Jurisdiction, CRA and DRS development. Most development projects in the CGA are reviewed by the Towns to allow a more streamlined review process due to prior incorporation of the standards and guidelines into the Town zoning code. Development projects, in those cases, must conform with Standards, however Guidelines are only advisory in nature.

Text added to the preamble in Section 5.3.3.11 identifies cultural resources as critical components in the region's heritage, economy and tourism. Local historic districts play important roles in preserving distinctive historic neighborhoods and assemblages of historic structures in the Central Pine Barrens. This section emphasizes protection of existing viewsheds along scenic roads and for scenic areas. As stated in the Amendments, the Standards and Guidelines support the protection of scenic resource features in the Central Pine Barrens.

The new amendment in Chapter 5, Guideline 5.3.3.11.1, Tall structures and scenic resources, applies to public corporations and other development projects which are not subject to local municipal jurisdiction, therefore, it has limited application.

Although many of the Standards and Guidelines may not directly discuss or require an evaluation of potential impacts of a development project on scenic, historic, and cultural resources, implementation of the Plan's Standards, and Guidelines, where applicable, result in indirect impacts, effects, and benefits of resource protection. Indirect impacts of the Plan's implementation include many possible tangentially related subjects including, but not limited to, the protection of vegetation as an ecological buffer to the Core, which in turn supports maintaining the essential character of the region, scenic views, and scenic roads. Other beneficial results of the Plan's implementation on scenic resources include the protection of open space, roadside management, non-disturbance buffers that protect resources including ecological communities, species and dark skies requirements that reduce light spillage across sites.

The Plan Amendments are not expected to cause adverse impacts on scenic and cultural resources. The Amendments are expected to increase the protection of such resources especially larger scale projects under Commission jurisdiction that must conform with Guidelines. The Amendments provide clearer guidance on scenic, historical and cultural resource protection. If a development project does not conform with one or more Standards and Guidelines The project must be revised to conform or it would be subject to the requirements of a CGA hardship waiver application.

#### *Standard 5.3.3.6 Open Space*

The open space standard provides beneficial direct and indirect impacts in regard to scenic resource protection. Project sites where open space is protected would be expected to preserve and enhance views on scenic roads and viewsheds or corridors. The standard's intent on configuring open space in an unfragmented pattern achieves the natural resources goal of the Act and ensures compact, efficient, and orderly development in the region.

#### *Standard 5.3.3.4.4 Reduction of Impervious Surfaces*

Reducing impervious surfaces is expected to support the preservation of scenic resources, where applicable. The CGA continues to serve as an ecological buffer to the Core. The preservation of natural vegetation on a roadfront or reducing the extent of pavement on a developed site benefits and protects scenic resources.

#### *Standard 5.3.3.9.1 Light pollution prevention*

This amendment is a new standard that applies only to development projects that are not subject to local municipal review. The Towns in the Central Pine Barrens, through their zoning codes, currently regulate dark skies protection. In rare instances, where a project is not regulated by a local municipal authority, the Commission can apply this Standard in accordance with similar existing "Dark Skies" regulations implemented by local zoning codes in the Central Pine Barrens. For instance, this standard may apply to a utility or a County or State property if and when a development project is required to be reviewed by

the Commission.

The Standard protects human and natural resources from disruption that results from light pollution on property in the region. Applying this provision to the limited subset of development projects not requiring municipal approvals will result in region-wide consistency in the landscape. This Standard is not expected to apply to most projects since most projects are governed by the regulations in local zoning codes. However, when the standard applies, it will provide for greater protection of the resources of the Central Pine Barrens. A development project that does not conform with the Standard may be revised to conform or the applicant may seek a hardship waiver subject to the Commission review.

No adverse impacts are expected as a result of this amendment. In certain cases, the amendment will provide greater protection of cultural, scenic and historic resources by reducing light pollution that may otherwise impact the essential character, resources, and enjoyment of the Central Pine Barrens.

#### *Guideline 5.3.3.11.1 Tall Structures and Scenic Resources*

This new amendment requires development projects not subject to local municipal review and approval to conform to the height restriction for tall structures defined in Chapter 4, Section 4.3.11. Therefore, the proposed Guideline applies to public corporations and any other projects not subject to local municipal review and approval and certain projects that rise to the level of direct review by the Commission, as defined in the Plan. An applicant whose project does not conform to the Standard may revise the project to conform or may seek a hardship waiver subject to Commission review.

The amendment seeks the reuse of existing tall structures rather than the construction of new facilities where feasible to protect existing scenic, historic, and cultural resources. When a new tall structure is proposed, the evaluation of its impacts will be driven by this guidance to assess potential visual impacts and impacts of tall structures on other resources.

No adverse impacts are expected as a result of this amendment to scenic, historic and cultural resources because it is consistent with other municipal regulations and has limited application. The Guideline, applicable to a project, provides for greater protection of the resources of the Central Pine Barrens.

#### *Guideline 5.3.3.11.2 Cultural resource consideration*

The amendment to subpart #3 of this Guideline inserts a reference to Volume 2. It is considered to be a ministerial amendment. This subsection incorporates the list of existing scenic roads, vistas and viewpoints that are currently identified in Volume 2. The amendment adds Figure 5-2 for direct reference to scenic resources. Once the project location and proximity to a scenic road or area in the Central Pine Barrens are identified, potential impacts the project may have on a scenic resource such as the viewshed, can be

evaluated.

No new scenic areas or roads have been added in the Plan Amendments. The only change occurring is ministerial to incorporate the list into Volume 1, Chapter 5 for quicker reference rather than having the list only in Volume 2. More complete descriptions are provided in Volume 2. No adverse impacts are expected as a result of this amendment to scenic, historic and cultural resources because it has limited application and it provides for greater protection of the resources of the Central Pine Barrens.

## **SUMMARY**

No adverse impacts will occur to scenic, historic and cultural resources as a result of the Plan Amendments. The amendments provide for greater protection of the resources in the Central Pine Barrens.

## **E. MITIGATION MEASURES**

The Plan Amendments aim to provide for greater protection of the resources of the Central Pine Barrens to minimize impacts to resources and to support compact, efficient, and orderly development in the CGA. The Plan Amendments in this chapter are largely administrative, have limited application, and/or only apply to development projects that are not subject to local municipal review or that come under the direct review of the Commission including DRS, CRA and Assertion of Jurisdiction projects.

Guidelines are typically advisory in nature when implemented by the Towns and apply in limited cases. The Plan Amendments offer improved guidance for adherence to standards involving clearing, native plantings, open space and impervious surfaces. A development project's conformance will mitigate its potential impacts on scenic, historic and cultural resources.

Applicants are encouraged to revise applications that do not conform with the Plan standards and guidelines. Hardship waivers are required in cases where development projects do not conform. The Plan Amendments affecting scenic and cultural resources provide for greater protection of the resources of the Central Pine Barrens and therefore no mitigation measures are required.



**A. INTRODUCTION**

This section discusses adverse environmental impacts that cannot be avoided as a result of the Plan Amendments. The amendments aim 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 GEIS conclusions are provided for reference.

As of December 31, 2020, 166 Commission decisions have been granted on Compatible Growth Area and Core Preservation Area hardship waiver applications, which is an average of six to seven per year over 25 years. Absent the Plan's adoption, the region would have experienced potentially greater and more significant adverse environmental impacts from development on water and ecological resources of the Central Pine Barrens.

**B. 1994 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS), 1995 SUPPLEMENTAL DGEIS, AND FINDINGS STATEMENT**

The 1994 GEIS identified “unavoidable unmitigated impacts of the Plan” which would occur in the CGA upon the adoption and implementation of the Plan that included “minor increases in density, air and water pollution, clearance of developable land, and traffic impacts on existing roads.” Although development and impacts identified in the GEIS have occurred to some extent in the CGA and to a much lesser extent in the Core, new development would be required to meet the development standards in the CGA. In the case of hardships for Core and CGA development projects, covenants and restrictions may be approved by the Commission.

**DEMOGRAPHICS**

The GEIS identified potential localized increases in the population in non-Core areas that would be attributable to the use of Pine Barrens Credits for additional density such as more units. In general, implementation of the Plan coordinates land use development and the credit program to achieve the goals and objectives of the Act in the Core and in the CGA. The Core is a sending area for development. The development potential from land in the Core is translated to Pine Barrens Credits that can be used to develop greater land use density or intensity outside of the Core. The effect of the development pattern shift is the transfer of a portion of the population density away from the Core where it is prohibited. The hardship waiver process is available to Core landowners as well. Since 1993, 61 Core hardship approvals and 30 disapprovals have occurred (2020 data).

The Towns are required to maintain a 1:1 sending to receiving area ratio for as-of-right receiving areas and a 2:1 ratio overall for greater Credit program flexibility to further facilitate Credit absorption. As of right receiving areas were identified by the Towns in the 1995 Plan where density increases up to an additional 20% could be granted at the planning board level. The non-Core areas will continue to experience development and increases in population as per the conclusions in the GEIS.

When a CGA project site is rezoned to allow greater land use development density or intensity, it may disturb the balance of potential development that was contemplated when the GEIS was prepared and the Plan was adopted. In such cases of so called “down zoning,” the reviewing and approving agencies should require the redemption of Pine Barrens Credits to offset potential adverse environmental impacts associated with increased development activity as originally anticipated in the GEIS. If no PBCs are required as mitigation, potential environmental impacts may occur that were not originally evaluated. Potential impacts may occur on environmental subjects including transportation infrastructure (e.g., roads), school districts, sewage, groundwater and ecological resources, utilities and energy facilities, and other resources.

### **C. POTENTIAL IMPACTS OF THE PLAN AMENDMENTS**

No unavoidable adverse impacts are expected as a result of the amendments. The amendments are largely ministerial in nature. The amendments generally codify existing practice, implement policies established by the Commission, or define provisions that were not previously defined.

New amendments are founded on the goals and objectives of the Act and generally aim 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 amendments provide for greater protection of the natural resources of the Central Pine Barrens.

Since 1995, changes have occurred to the boundary of the Central Pine Barrens that increased Commission jurisdiction on private property in the Town of Brookhaven. This significant change occurred in 2013 when the Town of Brookhaven completed and accepted a GEIS. It resulted in an expansion of the Central Pine Barrens by more than 4,000 acres in the Carmans River watershed. The expansion includes additional Core land, sending area, that generates Pine Barrens Credits (PBCs). The PBCs may be received elsewhere either in the CGA or outside the Central Pine Barrens jurisdictional boundary. The Town of Brookhaven analyzed the additional credits generated in the Core expansion area and provided additional receiving area capacity to absorb these additional PBCs. The Commission subsequently adopted ministerial amendments to Chapter 6 that apply to the Carmans River Watershed expansion area. The provisions of the Act and the Plan and Commission oversight apply to development activities in the expansion area.

### **SECTION 5.3.3.6 COORDINATED DESIGN FOR OPEN SPACE, HABITAT AND SOIL PROTECTION**

The amendments in this section quantify open space as simply the opposite of the clearing standard. The Plan always intended to require natural open space that remains after the clearing limit standard is applied to a development project site. The amendments identify the amount of open space required to provide clarity and certainty in the development project review process.

The amendments avoid adverse environmental impacts in the CGA by reaffirming the goal for the CGA to serve as an ecological buffer to the Core, in addition to allowing development to occur and to receive additional development transferred from the Core. Volume 2 of the Plan discussed the effectiveness of the buffer zone and transition area and noted that this depends on its size, ecological characteristics and human activities within it. The amendments preserve open space on sites that are presently overdeveloped and create compact, efficient, and orderly development, in accordance with the Act and the Plan. The open space standard requires all development project sites, regardless of pre-existing extensive clearing or overdevelopment, to preserve open space.

The standard reduces the clearing allowance from 65% to 60% for development projects in non-residential zoning districts (e.g., commercial, industrial). It provides a minor increase in the clearing allowance for projects on parcels owned by the State and public corporations regardless of the zoning district of the project site. This is a minor amendment that will benefit the region and a limited set of development projects. In the current Plan, clearing in residential zoning districts is, for the most part, more restrictive than clearing in non-residential zoning districts such as commercial or industrial districts. Currently, if the State or a public corporation such as a school or fire district proposes a development project in a residential zoning district, the clearing allowance is based on the residential zoning of the property as indicated by Figure 5-1 of the Plan. This has limited the ability of certain public corporations to expand their facilities to meet the growing needs of the public in the communities they serve.

The amendment seeks to accommodate the need for facilities that serve the public while still protecting the resources and essential character of the Central Pine Barrens. It is anticipated that the incremental increase in clearing over what is currently allowed for development projects by public entities would be minor since it is not expected to capture a wide range of projects. It affects only development projects of public entities which are limited in scope and in the number of parcels that would be affected in the Central Pine Barrens area. As stated in the Plan Amendment, this clearing limit would not be allowed on publicly owned lands that are dedicated for park purposes, open space or nature preserve, acquired with funds for open space preservation or parkland purposes since clearing would be precluded from occurring on these public lands.

The Plan currently allows development in commercial, industrial, other or mixed use zoning districts to clear to a limit of 65%. The Plan Amendments categorize these zoning districts as “All other zoning categories, including those categories without defined zoning lot sizes” where clearing up to 60% is permitted. This change to the clearing limit from 65% to 60% is considered minimal. It reduces the amount of vegetation allowed to be removed on a project site by 5% and increases the amount of open space required to be retained on the site by 5%, which will cause a potential beneficial increase in the protection of natural resources and the preservation of high quality of groundwater and the pine barrens ecology on the project site and the Central Pine Barrens. Therefore, this amendment will result in no significant adverse environmental impacts.

#### **STANDARD 5.3.3.6.1.7 CLEARED SITES**

This is a new standard for development projects that propose development exclusively within the cleared portions of the site. Absent the Plan Amendments, a site that is presently overcleared or entirely cleared could be developed or redeveloped in the entire cleared area, potentially offering no open space on a development project site.

This allowance conflicts with the CGA’s other function as an ecological buffer to the Core, as described in the 1994 GEIS. Continuing the practice would, in the long-term, reduce the amount of protected open space that is public or privately owned in the CGA, thus not achieving the goals set forth in the Act and the Plan. It would potentially produce an unavoidable adverse impact to continue the process of not requiring open space on those development project sites in the CGA that are overcleared.

A discrepancy was identified in the environmental review process related to Plan Amendments that require open space regardless of a site’s existing condition with the proposed Standard 5.3.3.6.1.7 Cleared Sites. This conflict needs to be resolved during the Final GEIS phase.

The Plan Amendments that require open space support the Act and the Plan’s goals for the CGA to maintain an ecological buffer to the Core. The amendments support the goals and objectives of the Act to accommodate compact, orderly and efficient development in the CGA. The amendments provide greater protection of the resources of the Central Pine Barrens and will result in a net increase in open space in the long-term.

The standard requires development project sites that currently exceed clearing limits to set aside open space to protect a portion of the project site regardless of whether the area to be set aside is currently vegetated. If it is not vegetated, it shall be left to undergo self-heal restoration and/or be actively restored through the implementation of an approved revegetation plan.

The Plan Amendments are intended to protect the representative natural resources that exist in the CGA. No adverse environmental impacts from the Plan Amendments are anticipated to occur once the discrepancy between standards is reconciled.

### **STANDARD 5.3.3.9.1 LIGHT POLLUTION PREVENTION**

This new standard aims for consistency with existing local dark skies regulations. The standard requires a development project in the CGA to be dark sky compliant. It applies to projects not subject to municipal review such as libraries, schools, fire districts, and utilities. If an activity constitutes development pursuant to the Act, the project must conform with the standards of the Plan. If the project does not conform and it is not revised to conform, the applicant must seek a hardship waiver from the Commission.

Development project sites subject to local review are currently subject to conformance with dark skies provisions. Therefore, the standard supports and is consistent with existing regulations in effect in the region including in the Towns of Brookhaven, Riverhead, and Southampton. The amendment will create consistency in the landscape with attention to design and installation of lighting fixtures that reduce nighttime lighting and glare, protect natural resources, and conserve energy resources. This amendment is minor in nature and is consistent with current industry standards and practice. It is protective of ecological resources affected by nighttime lighting. No adverse environmental impacts from this amendment are anticipated to occur.

**A. INTRODUCTION**

This chapter summarizes the Proposed Action and its potential impacts on the loss of environmental resources both in the immediate future and over the long-term. It identifies those environmental resources that would be irretrievably lost due to the implementation of the Proposed Action and, consequently, would not be available for reuse for another purpose. Resources include both man-made and natural resources. Examples of the irreversible and irretrievable commitment of resources include losses related to the removal of vegetation without replacement, consumption of energy resources and materials and construction and operation of a project. These are considered irretrievably committed, since their reuse for another purpose would be highly unlikely or not viable. In the case of the Plan Amendments, no construction of a specific project is occurring. The amendments will affect development projects in a beneficial manner that is more protective of pine barrens resources.

**B. 1994 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS),  
1995 SUPPLEMENTAL DGEIS, AND FINDINGS STATEMENT**

The GEIS stated the implementation of the Plan will result in the protection of significant pine barrens habitats that are recognized as globally unique and contain many rare and endangered species. In addition, the Plan will add the protection of groundwater resources that are of relatively high quality that underlie the Central Pine Barrens area by redirecting development away from the Core and managing additional growth that would occur in the CGA through minimum standards for development. To accomplish the permanent protection of the core there will be an irreversible commitment of monetary resources used to acquire certain vacant parcels in the core and certain amount of lost tax revenue from these lands that are acquired outright.

Money for land acquisition in the Core area will be obtained from the State's Environmental Trust Fund which dedicates monies for the implementation of the Act. Suffolk County provides funding for land acquisition derived from the County-wide tax revenue stream to preserve groundwater resources. New York State actively pursues important land acquisitions as part of the State's Open Space Plan. Other funding sources include the Community Preservation Fund (CPF) programs where active and implemented by the Towns of Southampton and Riverhead, and private, non-profit organizations that acquire land in the region such as the Peconic Land Trust and Nature Conservancy.

This commitment of monetary resources can be partially offset by the Pine Barrens Credit Program since land in the Core is protected by transferring its development potential to areas outside of the Core. The landowner who receives PBCs for the parcel they own in the Core still owns the land and will still pay property taxes that contribute to the Town's tax base. Even if owners of Core property are allowed a reduction in property tax once the development rights are removed, the tax revenue will eventually be returned to the Town once the PBCs are used for development purposes outside of the Core area, provided they are used within the same town from which they were generated.

In the impacts on land use and zoning patterns, the SDGEIS (1995) stated that implementation of the Plan does not result in more development and clearing within each town. On the subject of ecological resources, it concludes, "A minor loss of less critical ecological resources would result from implementation of the Plan. Generally, these resources would be the commoner terrestrial communities." The Plan would produce a net conservation on the quantity of Central Pine Barrens groundwater resources. Cultural resources, however, "may be sacrificed for the good of other resources, such as ecological, on the same site and to ensure preservation of specific areas of the Core," due to the transfer of development from the Core. Open spaces and visual resources were also expected to be diminished due to additional incremental development density.

### **C. POTENTIAL IMPACTS OF THE PLAN AMENDMENTS**

The Plan Amendments continue the implementation of the Plan in accordance with the Act and update provisions where appropriate, as directed by the Act. As it states in the Section 57-0105 of the Act, the New York State legislature recognized that the provisions of the Act may restrict the beneficial use of some land in private ownership. However, these restrictions are deemed to be necessary and desirable to protect and preserve the hydrologic and ecologic integrity of the Central Pine Barrens area as well as the public's health and welfare for future generations.

The Plan Amendments result in a greater commitment to resource protection in the Central Pine Barrens such as open space set aside after applying the standard requiring reduced impervious surfaces on a project site. Implementation of the Plan Amendments renews the Commission's responsibilities to meet the goals and objectives outlined by the State legislature to protect ecologically significant pine barrens habitats that are recognized as globally unique and contain rare, threatened and endangered species.

Implementation of the Plan Amendments continues to protect groundwater resources that are of relatively high quality that underlie the Central Pine Barrens area. This occurs by redirecting development away from the Core Preservation Area resulting in an irreversible and irretrievable commitment of groundwater resource protection, an overall beneficial environmental impact.

By encouraging and managing compact, efficient, and orderly growth in the CGA and maintaining an ecological buffer to the Core by ensuring that development occurs in

conformance with standards and guidelines outlined in the Plan, the Plan Amendments result in an irreversible and irretrievable commitment to greater protection of ecological resources. In the long-term, it is expected that undeveloped private lands in the CGA will be developed in accordance with the Plan. Although some resources will be lost to an extent, as previously analyzed in the GEIS in 1994 and the SDGEIS in 1995, the Plan will still continue to preserve the CGA as an ecological buffer to the Core.

Efforts to continue to accomplish the permanent protection of the Core, will result in an irreversible commitment of resources and removal of land available for development, consistent with the Act and Plan goal of preserving the Core. Redirecting development from the Core and applying standards to development in the CGA continues to avoid development related impacts including but not limited to impacts on school districts, community facilities, and infrastructure. As land comes into the public trust through a variety of land protection and cluster development strategies, stewardship and management of public lands represents an irreversible commitment to protect resources.

The Plan Amendments which require a reduction in impervious surfaces, self heal, restoration and open space requirements when redevelopment occurs on overcleared sites result in a modest net increase in open space in the Central Pine Barrens. Absent the Amendments, the opportunity to establish additional open space on these previously disturbed areas would continue to be lost and these sites would continue in a developed condition. The Amendments require open space on a development project site regardless of whether the existing condition of the site is naturally vegetated or extensively cleared. Under the Plan Amendments, a portion of the development project site, as specified in Figure 5-1, will be unavailable for development and is removed from the developable area as it must remain as natural open space. If the site is cleared, the Amendments provide for passive (self-heal) or active restoration. In that case, the Plan Amendments are consistent with the commitment of resources that was intended when the Plan was adopted. No irreversible or irretrievable impacts are expected.

Since the Amendments result in a net increase in protected land, open space will not be irretrievably lost due to implementation of the Proposed Action. The open space may add or connect to other public lands and become available for passive recreational uses and opportunities. The open space standard, which requires a preservation area to be set aside in development projects even on project sites that are overcleared as per the date of the Act, is consistent with the Act and the Plan. Implementation of this standard will contribute to the overall protection of region-wide significant groundwater and ecological resources of the Central Pine Barrens.

## **NATURAL RESOURCES**

The Plan Amendments, rather than causing the permanent loss of one or more environmental resources, will result in the opposite effect of inducing a long-term, net increase in the



preservation of environmental resources including plant and wildlife habitat, water quality, soils, and the essential character of the Central Pine Barrens region.

In addition, existing agricultural resources on unprotected land that could be lost to development from conversion to non-agricultural uses such as residential subdivisions, commercial site plans, or other development activity, are specifically identified to be protected, where feasible. Agricultural resources represent a significant cultural resource in the region worthy of regional and long-term preservation. Where a development project occurs on actively cultivated agricultural land, the “open space” or agricultural reserve will protect and continue existing farming activity. The Amendments recognize the importance of the preservation of agricultural resources in the Central Pine Barrens. This is a long-term irreversible commitment of resources with a greater public benefit that contributes to the State’s agricultural production opportunities and the long-term protection of agricultural resources.

### **DEVELOPED RESOURCES**

The Plan Amendments are expected to reclaim as open space areas in the CGA that may be presently underutilized, not natural, overly developed or cleared, contain excess pavement or other extensively built areas. If development activity is proposed on an excessively cleared site, the open space will be required regardless of the site’s existing condition. This is not the case in the current Plan that by default allows the entire cleared area to be developed or re-developed since no natural vegetation exists on an entirely cleared site.

Since the CGA was designed to serve not only as an area to be developed but also as an ecological buffer to the Core, the Plan Amendments continue to advance the objectives of the Act and Plan and continue to protect water and ecosystem resources and the essential character of the Pine Barrens. The irreversible commitment of resources is a long-term goal of the Plan that provides for greater protection of the natural resources of the Central Pine Barrens and results in a net gain or benefit to the region rather than a loss of resources.

In the long-term, extent of open space will increase in the CGA due to the Plan Amendments. The benefit is regional resource preservation and the public’s enjoyment of open space in the region through the creation of passive and active recreational uses. Current practice allows a development project site that is cleared to be entirely developed or redeveloped with no open space set aside. This does not achieve the goal of establishing an ecological buffer to the Core.

Research indicates that the protection of land provides valuable natural goods and services such as air pollution removal, water quality protection, and stormwater management. Tens of millions of dollars are saved annually on Long Island in stormwater management and treatment costs due to the natural filtration of stormwater in parks and open spaces. The investment of land preservation translates to significant economic values and proactive resource management and protection.

## **D. SUMMARY**

The Proposed Action, which does not include construction or the use of fossil fuels or energy resources, or the consumption of renewable or non-renewable resources, will not result in irreversible and irretrievable commitment of resources of the Central Pine Barrens. The Plan Amendments update the Plan as directed by the Act and provide for greater protection of the resources of the Central Pine Barrens.

The overall long-term commitment of region-wide resource preservation involving sole source aquifer protection and limiting development that causes adverse environmental impacts including a loss or diminishment of significant ecological and water resources results in no significant adverse environmental impacts or an irreversible and irretrievable commitment of resources.

**A. INTRODUCTION**

This section reviews the potential growth-inducing impacts of the Plan Amendments. The term “growth-inducing aspects” generally refers to “secondary” impacts of a proposed action that trigger further development outside the directly affected area. The analysis of growth-inducing impacts of a proposed action is appropriate when the project 1) adds substantial new land use, residents, or new employment and/or 2) introduces or greatly expands infrastructure capacity. Neither consequence will occur as a result of the Plan Amendments.

**B. 1994 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS),  
1995 SUPPLEMENTAL DGEIS, AND FINDINGS STATEMENT****GEIS FINDINGS**

As the SEQRA record explains and supports, the Plan is not expected to induce any growth above that which is generated by existing development pressures. It will reduce or redirect the induced growth which will occur, with or without its implementation, to more ecologically suitable areas.

**GEIS SUMMARY**

The GEIS for the Plan discussed the equalization of units in the region despite that they would be shifted from the Core to the CGA and receiving areas. The GEIS envisioned that the receiving areas would be primarily located where there was adequate infrastructure in terms of sewage, water, road capacity and community services to accommodate the increase in density. It is more economical to provide roads, water and community services to more compactly developed areas than to communities spread out over larger areas in a sprawled development pattern.

The GEIS indicated that population density would likely be shifted away from the Core and it would be more densely developed in receiving areas. Residential receiving areas could potentially attract families with children that could cause growth inducing impacts on schools. However, the PBC program was designed to consider increases in density in areas where schools operated below capacities.

### **C. POTENTIAL IMPACTS OF THE PLAN AMENDMENTS**

The Plan continues to prohibit development in the Core and redirects development unless a hardship exemption is granted. No growth inducing impacts are anticipated as a result of the Plan Amendments.

In the short-term, prior to adoption and implementation of the Plan Amendments, the number of development project applications may increase in the CGA before the Amendments are adopted to avoid real or perceived impacts related to the loss of development potential on presently overcleared sites due to the standard requiring a reduction of impervious surfaces. The standard requires a development application to set aside open space on presently overdeveloped or overcleared sites. Presently, in the absence of Plan Amendments, these sites would not be required to set aside open space when developed or redeveloped. Since those sites have no natural area left to clear, by default, the project is determined to conform with the clearing standard and thus allow the entire site to be developed.

The Plan Amendments will strengthen the attributes of the Plan in a more targeted and effective approach to achieve compact, efficient and orderly development in the CGA. The Plan Amendments are consistent with the Act and the Plan. They recommend language and codify practices to strengthen standards and guidelines for land use development. Specifically, the amendments clarify for applicants and reviewers the correct approach to apply and implement clearing and open space standards to achieve the intended result envisioned in the Act and Plan.

Development will continue in the CGA in accordance with the Plan. Minor additional clearing may occur on development project sites where public corporations may clear up to 60% for their uses and facilities. Currently, such projects or land uses are subject to residential zoning district clearing limits that may be more restrictive.

The goal to achieve and accommodate compact, efficient and orderly development in the CGA inherently reduces the proliferation of excess infrastructure into low density areas where it is not required or necessary. The planning and design of land use development in the CGA aims for efficiency in land use development and intends to avoid overdevelopment of the CGA and potentially related growth inducing impacts.

The Plan Amendments do not result in growth inducing impacts since the majority of the amendments are ministerial in nature and propose to refine and clarify existing Plan provisions. Proposed new provisions reflect the goals and objectives of the Act to protect the natural resources of the pine barrens and not induce growth or cause cumulative impacts.

According to Volume 2 of the Plan, the use of receiving areas was intended to achieve a marginal increase in density over a broad area, the Compatible Growth Area, and outside the Central Pine Barrens altogether. The amendments continue to allow the Compatible Growth Area to serve as an area that absorbs a portion of the credits generated from the Core

Preservation Area. It accommodates compact, efficient, and orderly development while protecting the character, scenic, and natural resources in the CGA to manage growth in accordance with the Act and through the implementation of the standards and guidelines for development in the Plan.

The Plan Amendments will achieve cumulative beneficial impacts on resource protection in the CGA by refining standards that achieve the goals originally outlined in the Act and Plan. For instance, this is true in the application of the clearing standard on sites that are currently “overcleared” and being redeveloped. The Plan inadvertently omitted the inverse of the clearing limit when applying the standard on presently overcleared sites in a redevelopment scenario. In examination of the Act and Plan language, it is evident that resource protection was always a goal in the CGA while allowing compact, efficient and orderly development. These two missions are not mutually exclusive and are achievable through implementation of the Plan as it was envisioned. Ultimately, the Amendments will result in more clustered development and more open space with each achieving beneficial results.

No significant adverse cumulative impacts are expected as a result of the Plan Amendments.

**A. INTRODUCTION**

This chapter discusses the potential impacts, if any, the Plan Amendments may have on the use and conservation of energy resources in the Core Preservation Area and the Compatible Growth Area, which may result from their adoption and implementation.

**B. 1994 GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS), 1995 SUPPLEMENTAL DGEIS, AND FINDINGS STATEMENT**

The DGEIS anticipated that implementation of the Plan would result in a decrease in energy needs for the Core Preservation Area since development will be redirected from this area of the region. The overall effect on the use and conservation of energy resources would remain the same since the number of units are just being transferred from one area (Core) to another area (receiving area) within the region.

The use of clustering techniques, Planned Development Districts (PDDs), and Pine Barrens Credit transfers of development rights were expected to result in greater efficiency in the development of roads and infrastructure and less energy expended in the use and consumption of fuel.

**C. POTENTIAL IMPACTS OF THE PLAN AMENDMENTS**

There are no direct energy sources being consumed by the Plan Amendments since there are no construction and operational phases of the Plan Amendments. No greenhouse gas emissions will occur as a result of the Amendments. Any development projects subject to the Plan Amendments will continue to be reviewed in accordance with SEQRA and be subject to site-specific SEQRA analyses.

The Plan Amendments do not create additional demand or consumption of energy resources that need to be quantified or estimated in this assessment. The Amendments aim for energy efficiency and consistency in design and layout in the Pine Barrens landscape.

The Plan Amendments may result in beneficial impacts on conserving energy resources through the proposed standard for light pollution prevention. The standard aims to provide consistency in the pine barrens landscape with other regulations in the region that implement dark skies lighting requirements to protect natural resources and to encourage efficient and minimal use of energy and lighting only when necessary.

The Plan Amendments aim for continued support of the goals of the Act and the Plan to accommodate growth in the CGA that conforms with the standards and guidelines while preserving the essential character of the pine barrens environment. Preserving open space in unfragmented blocks and placing development in compact patterns reduce infrastructure expenditures including road and utility extensions in the short and long-term. No adverse impacts will occur to energy resources as a result of the Plan Amendments.

This section addresses the potential impacts of the Plan Amendments on and consistency with the Central Pine Barrens Comprehensive Land Use Plan (the Plan) ratified and adopted pursuant to Article 57 of the Environmental Conservation Law. The goals and objectives set forth in Article 57 and implemented by the provisions of the Plan have been examined and were evaluated as successful in policy and practice.

No significant adverse environmental impacts were identified as a result of the Plan Amendments. The amendments are intended to codify and be consistent with past practice of the Commission, research, and implementation of the Plan. Clarifications of standards are proposed that offer more quantifiable and precise direction where possible to realize greater certainty in the review process.

New standards are expected to be beneficial and provide for greater protection of the natural resources of the Central Pine Barrens and support the goals and objectives of the Act for compact, efficient, and orderly development. The new standards aim to protect water resources and ecological resources in the Central Pine Barrens. Their implementation is not expected to be overly burdensome to applicants of development projects in the CGA. The CGA was intended to serve as an ecological buffer to the Core as discussed in Volume 2 of the Plan Section 5.10 Ecological Principles of Conservation Reserve Design, in addition to allowing development to continue in accordance with the standards and guidelines and to receive development transferred from the Core. It will continue to be developed in that manner. The Plan continues to support the 1995 objective to redirect development from the Core through land acquisition and implementation of the Pine Barrens Credit Program.

The amendments also include standards that apply to development projects not subject to other municipal review that aim to establish a region-wide consistency in design, construction and development in the Central Pine Barrens landscape. For instance, the new dark skies standard applies only to those projects that occur in the region that may not be subject to local jurisdiction such as schools, libraries and utilities. Projects subject to local review are currently bound by compliance with town codes that implement dark skies initiatives including the use of energy resource-saving fixtures and the reduction of nighttime lighting. The Plan Amendments provide consistency in achieving region-wide development standards.

Therefore, the amendments continue to advance the goals and objectives of the Act and the Plan. The Plan is designed to preserve the pine barrens ecosystem, to ensure the high quality of groundwater resources within the area, and to balance the public and private interests in



development and in protection of the pine barrens ecology consistent with the objectives of the land use plan.

The amendments support the protection of water resources, ecological communities, scenic and cultural resources, and essential character by preserving the representative and unique features, resources, and systems that are critically important in the region. The pine barrens ecosystem should be maintained through a variety of objectives including protection of the physical distributions of species and populations that may act as sources for natural and native genetic diversity and material when disturbances such as wildfires or other natural and man-made events occur in the landscape; protect representative and globally rare habitats of a certain size and shape that limit edge effects and create greater interior forest; limit intrusions and maximize connectivity to open space; reduce habitat and open space fragmentation; and continue to develop the CGA in a pattern that serves as an ecological boundary and buffer to the Core.

**A. INTRODUCTION**

This section discusses potential alternatives to the adoption and implementation of the Plan Amendments. A review of the Alternatives evaluated in the 1994 DGEIS and the 1995 SDGEIS is also provided. The two Alternatives to the Plan Amendments include No Action and Ministerial Amendments.

**B. 1994 DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (GEIS),  
1995 SUPPLEMENTAL DGEIS, AND FINDINGS STATEMENT****1994 DRAFT GEIS ALTERNATIVES**

The 1994 GEIS reviewed alternatives that were broad in scope and related to the overall creation of the Plan and its primary goals and objectives including land acquisition in the Core. The current Plan Amendments are more specific and narrowly focused on new or amended Standards and Guidelines. The 1994 GEIS alternatives included:

- Alternative 1: No Action
- Alternative 2: Long Island Comprehensive Special Groundwater Protection Area (SGPA) Plan
- Alternative 3: Total Acquisition of All Privately Owned Vacant Parcels in the Core Preservation Area through Direct Purchase

**ALTERNATIVE 1: NO ACTION**

In the GEIS, the No Action Alternative identified the extent of land area in each Town that was privately owned, vacant, and undeveloped and the residential buildout of the area, which was estimated to total 10,286 acres spanning the three Towns. In addition, the buildout of commercial and industrial zoned privately owned vacant property totaled 5,539 acres. The buildout analysis also provided the total acres of clearing that would occur as a result of development, estimated at 11,594 acres under existing zoning. The buildout condition would have resulted in development including roads; water; electric; gas and telephone lines; sewage facilities; community facilities including educational, police, fire protection, health care, and public recreational facilities. Development, in the No Action Alternative, would have sprawled out over the entire Central Pine Barrens including the Core and CGA, resulting in habitat fragmentation and impacts on water and ecological resources, among other environmental resources.

## ALTERNATIVE 2: SGPA PLAN

The SGPA Plan Alternative was focused on acquisition, clustering to add preserved land in the area and rezoning to reduce density. It emphasized a transfer of development rights strategy to a lesser extent than the Central Pine Barrens Comprehensive Land Use Plan does to preserve areas of the Central Pine Barrens. It addressed potential upzoning to five acres per unit, which would preserve the majority of vacant land in each Town, specifically 12,745 acres in Brookhaven, 2,753 acres in Riverhead, and 6,004 acres in Southampton, or a total of approximately 21,502 acres. Protection of lands in watersheds of rivers and significant ecological communities such as the dwarf pine plains were recommended to complement other preserved lands.

Transfer of development rights and acquisition of development rights were discussed in this alternative to protect farmland and concentrate development in more centrally located areas and in a compact, efficient, and orderly pattern. The alternative, referring to the SGPA Plan, raised the concept of a “sunset” clause on certain uses to protect groundwater. Specifically, the DGEIS stated that the Towns of Brookhaven and Southampton should facilitate the conversion of obsolete or inappropriately located extractive and industrial properties to residential use and install sewage treatment plants in order to protect the groundwater.

## ALTERNATIVE 3: TOTAL ACQUISITION OF PRIVATE VACANT LAND IN THE CORE

This Alternative identified 32,580 acres of land in the Core that was already preserved as public land and 10,254 acres of privately owned vacant land in the Core. Sources of acquisition funding were identified that included Suffolk County, New York State, local towns, Federal Government, and private entities such as The Nature Conservancy, Peconic Land Trust, Long Island Pine Barrens Society, and other private sources. The average cost of land per acre in Suffolk County’s open space and groundwater protection programs was estimated for the years from 1986 to 1992. The per acre value was approximately \$17,000.

## **1995 SUPPLEMENTAL DGEIS ALTERNATIVES**

The 1995 SDGEIS reviewed alternatives including:

- Alternative 1: No Action (development according to existing conditions including SGPA)
- Alternative 2: Analysis of the Plan Without a Core Roadfront Parcel Policy
- Alternative 3: Analysis of the Plan With a 25%, 50%, or 100% Acquisition of Vacant Land Policy

## SDGEIS ALTERNATIVE 1: NO ACTION

The No Action Alternative in this case presumes development will occur in an as-of-right manner, consistent with existing zoning, local ordinances, environmental constraints and the law, and to the extent practicable, consistent with local and regional master plans.

One way of envisioning future development in the absence of the Plan is to assume build out of the remaining privately owned, vacant undeveloped residential land in the Core area consistent with existing zoning. In the Town of Brookhaven, 6,061 acres of land, in the Town of Riverhead 1,042 acres of land, and in the Town of Southampton 3,760 acres of land would fall into this category. The total potential additional residential units which could be constructed on these lands would be 2,583 units in Brookhaven, 564 in Riverhead and 770 units in Southampton, for a total of 3,917 units in the Core, compared to the Plan's goal of no additional units. However, the Act allows approximately 200 units to be developed in the Core, which is a de minimis 5% of the total, when compared to the buildout under existing conditions.

This simplistic and incomplete scenario, however, does not account for the existence of state and local laws and regulations which also restrict development in certain instances. In so far as the existing development mechanisms are recognized and successful to some degree, it would be unrealistic to presume that such existing laws and ordinances could be utilized to create and protect an area analogous to the Core in the future.

As noteworthy as it was, the SGPA Plan, which was outlined in ECL Article 55 and in many ways was consistent with the Plan, had no path to implementation (e.g., funding, environmental analyses, economic analyses and government action), was not realized and was not crafted to create a contiguous Core Preservation Area. It cannot be relied upon to preclude piecemeal and scattered development or assure orderly and compact development.

#### SDGEIS ALTERNATIVE 2: ANALYSIS OF THE PLAN WITHOUT A CORE ROADFRONT PARCEL POLICY ALTERNATIVE

This Alternative discussed the 106 parcels on 129.81 acres that are on the roadfront list and their value, if acquired, which was estimated at more than \$6.36 million. It was determined that if they were acquired, they would be very difficult to manage given their locations. Management of public property is significantly easier and more effective in large contiguous tracts. Small parcels interspersed with privately owned and developed parcels often become local dumping grounds, require frequent inspections, and involve excessive clean-up costs.

It was determined that in many cases, the parcels on this list would qualify for hardship waivers under the provisions of the Act, which would further increase their value as buildable lots.

#### SDGEIS ALTERNATIVE 3: ANALYSIS OF THE PLAN WITH A 25%, 50%, OR 100% ACQUISITION OF VACANT LAND POLICY

The Plan's acquisition goal for the Core was established at 75%. Noting that the Commission has no direct resources to make acquisitions, it relies on State and County appropriations for acquisitions of Core properties.

In the 25% or 50% acquisition scenario, the Commission would stop seeking further acquisitions of privately held, undeveloped and unprotected land in the Core. Under a 100% acquisition policy, the Commission would seek to acquire all of the Core property. The cost of the 100% acquisition policy was identified in the 1994 DGEIS. With a \$25,000 per acre minimum value, the total cost of 100% acquisition in the Core was estimated at \$307,875,000.

The DGEIS noted that 32,580 acres of land in the Core is already preserved as public land. This land includes federal, state, and town parks and open space areas in addition to county and town development rights areas and surface waters. It was noted that 91.6% of the privately owned vacant land is residentially zoned. There are many factors that affect the value of land such as subdivision potential and road access/frontage.

There is a total of 10,254 acres of privately owned vacant land totally in the Core. An additional 58 privately owned vacant parcels fall within both the Core and CGA that comprise a total of 4,122 acres. Assuming half of this acreage is in the Core, the total area of privately owned vacant land in the Core is 12,315 acres.

The average cost per acre in the Suffolk County Open Space Program and the Groundwater Protection Program was \$14,339 and \$19,669, respectively. The DGEIS stated the County pledged \$10 million from the Groundwater Protection fund for the purchase of land in the Core. Annual appropriations for the open space and farmland protection programs are still occurring, representing approximately \$4 million per year. New York State pledged \$10 million for acquisition of land in the Core. Local, Federal, and private funds are also used for Core land acquisitions. Based on the 1995 estimates of potential acquisition cost, the policy of 100% acquisition of vacant land was not feasible.

### **C. PLAN AMENDMENTS ALTERNATIVES ANALYSIS**

The alternatives evaluated for the Plan Amendments include the No Action Alternative and the Ministerial Amendments Alternative.

#### **NO ACTION ALTERNATIVE**

In the No Action Alternative, no Plan Amendments would be adopted. The Amendments provide clarifications and codification of established past practice of the Commission through adopted decisions and determinations. These practices would not be formally recognized in this Alternative. However, in the No Action Alternative, it is expected that the Commission will continue to apply rationale used in past decisions whether or not the amendments are adopted. Under the No Action Alternative the Commission will continue to implement the goals and objectives of the Act and the Plan in conformance with provisions outlined therein, which may be aligned with one or more of the Plan Amendments regardless of their adoption.

Amendments that apply to projects not subject to other regulatory jurisdiction will not be adopted in the No Action Alternative. Development projects that occur in the region that are not subject to local regulations such as some schools, libraries, and other municipal uses will continue to be developed in a pattern that may not reflect the preservation of regional resources and will not be consistent with other developed land uses such as commercial sites and residential subdivisions. This may result in two adjoining project sites being developed under dissimilar standards and a lack of attention to consistency in design features, layout and resource protection.

Other amendments that define terms, provide clarity, are consistent with past practice, and solidify review procedures will not be adopted or implemented. The Commission will rely on current practice to utilize terms and decisions used in the past in the review of future development activities and proposals.

The No Action Alternative fails to advance the achievements made to date to protect natural resources and to maintain the CGA as an ecological buffer to the Core Preservation Area while accommodating compact, efficient and orderly development in the CGA.

### **MINISTERIAL AMENDMENTS ALTERNATIVE**

The Ministerial Amendments Alternative would result in the adoption of only ministerial amendments. This category of amendments includes minor word edits, references to the statute, elaborated preambles and the combining of existing provisions or standards of a similar nature. The Ministerial Amendments result in no significant adverse environmental impacts. They reaffirm the intent of the Act and the Plan for the CGA to act as an ecological boundary to the Core and for the CGA to be developed in a compact, efficient, and orderly pattern.

In the Ministerial Amendments Alternative, the administrative changes that will be implemented include term and word additions, renumbering, and other amendments that do not result in adverse impacts, do not expand regulatory jurisdiction, and are not more restrictive than the current Plan. The Plan Amendments that refine the breadth of the Commission or establish stricter thresholds for direct Commission review will not be implemented in this Alternative.

Amendments not considered ministerial include, but are not limited to, Chapter 4 amendments to DRS projects and Chapter 5 amendments to clearing limits and open space requirements. Other amendments excluded from the Ministerial Amendments Alternative pertain to new provisions including tall structures, invasive species, and bird protection. Although these amendments have limited effect and application, they support greater rather than less protection of the resources in the Central Pine Barrens. They would not be included in the set of ministerial amendments.

Chapter 6 amendments involve ministerial changes including memorializing past decisions of the Commission, adding terms or other editorial changes, and clarifying the credit appeal review process. All Chapter 6 amendments are considered ministerial and are advanced in this

alternative since no substantive changes that result in significant adverse impacts are proposed in Chapter 6.

Although adoption of ministerial amendments as an alternative achieves partial progress in the Amendments process, it is a lost opportunity to advance a complete set of amendments that reaffirms the Standards and Guideline of the Act and ensures protection of high quality groundwater and ecological resources of the Central Pine Barrens. Long-term, the Commission may revisit a proposal to adopt more substantive amendments to the Plan that support and enforce the intent of the Act and the Plan resulting in greater protection of the resources of the Central Pine Barrens.

There are more ministerial amendments in the Plan Amendments than non-ministerial amendments (a more substantive change to what the present Plan requires or is a completely new requirement).

Specifically, ministerial amendments identified in this Alternative include those identified in the Chapters 4, 5, and 6 figures listed below. Non-ministerial amendments are underlined in ***bold italic*** text in the figures below. These items will not advance in the Ministerial Amendments Alternative.

**FIGURE 13-1: CHAPTER 4 SUMMARY LIST OF AMENDMENTS**

Sections in ***bold italic*** text are considered “non-ministerial.” Other amendments in Chapter 4 are considered ministerial.

CHAPTER 4 SECTION AMENDMENT	SUMMARY OF AMENDMENT
4.2 Intent	Encourages interagency data sharing and coordination for efficiency
4.3 Definitions	Adds reference to the Plan
4.3.2 Plan	Adds reference to the Act
4.3.5.1 Interpretation of “nondevelopment” provision 57-0107(13)(xiii)	New subsection Clarification of provision in the Act
4.3.9 Project Site	New section, defines term
4.3.10 Self-Heal Restoration, Self Restoration	New section, defines new term
<b><i>4.3.11 Tall Structure</i></b>	<b><i>New section, defines new term</i></b>
4.5.2 Development located within the Compatible Growth Area which does not conform to the standards contained in Volume 1, Chapter 5 of the Plan (“nonconforming development”)	Adds term “nonconforming development” to section heading
4.5.2.1 Nonconforming development: Filing of an application	Adds term “nonconforming development” to title
4.5.2.3 Nonconforming development: Completeness determination deadline	Adds term “nonconforming development” to title

CHAPTER 4 SECTION AMENDMENT	SUMMARY OF AMENDMENT
4.5.3 Development located within the Compatible Growth Area which has been subjected to a petition by the Commission pursuant to ECL Section 57-0123(2) (“assertion development”)	Adds term “assertion development” to title
4.5.3.2 Assertion development: Hearings and assertion of review jurisdiction	Adds term “assertion development” to title
4.5.3.3 Assertion development: Review standards	Adds term “assertion development to title, adds reference to the Act
4.5.4 Development located within the Compatible Growth Area which is also located within a Critical Resource Area (“CRA development”)	Adds term “CRA development” to title
4.5.4.1 CRA development: Definition of Critical Resource Areas	Adds term “CRA development” to title and adds reference to and excerpt from the Act Section 57-0121(6)(e)
4.5.4.1.1 Brookhaven Town Critical Resource Areas	New subsection identifying Brookhaven CRAs
Figure 4-1 depicts existing Critical Resource Areas in the Town of Brookhaven	Amended Figure lists only Brookhaven CRAs and identifies ownership of CRAs
4.5.4.1.2 Southampton Town Critical Resource Areas	New subsection identifying Southampton CRAs
Figure 4-4: Critical Resource Areas in the Southampton Town CGA	New Figure, list identifies Southampton CRAs and describes features
4.5.4.2 CRA development: Review standards	Adds term “CRA Development” to title
4.5.4.3 CRA development: Application and hearing	Adds term “CRA Development” to title
4.5.4.4 CRA development: Decision on the application	Adds term “CRA Development” to title
4.5.4.5 CRA development: Default decisions	Adds term “CRA Development” to title
4.5.5 Developments of Regional Significance located within the Compatible Growth Area (“DRS development”)	Adds term “DRS Development” to title
4.5.5.1 DRS development: Definition of a Development of Regional Significance	Adds term “DRS Development” to heading, new preamble to introduce DRS thresholds
4.5.5.1 #1 Non-residential floor area, exceeds 300,000 square feet of gross floor area	Existing threshold, no change except the inclusion of educational institutions and health care facilities
<b><i>4.5.5.1 #2 Residential, 200 or more residential units</i></b>	<b><i>New provision that reduces the number of units requiring review as a DRS and includes multi-family development projects</i></b>
<b><i>4.5.5.1 #3 Mixed Use, development of 400,000 square feet or greater</i></b>	<b><i>New provision to define mixed use projects and related projects of this size and scale</i></b>
<b><i>4.5.5.1 #4 Development of surface water features that expose groundwater</i></b>	<b><i>New provision to protect water resources in accordance with the Act and Plan</i></b>
4.5.5.2 DRS development: Review standards	Adds DRS Development to title
4.5.5.3 DRS development: Application and hearing	Adds DRS Development to title



<b>CHAPTER 4 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>
4.5.5.4 DRS development: Decision on the application	Adds DRS Development to title
4.5.5.5 DRS development: Default decisions	Adds DRS Development to title

**FIGURE 13-2: CHAPTER 5 SUMMARY LIST OF AMENDMENTS**

Sections in bold italic text are considered “non-ministerial.” Other amendments in Chapter 5 are considered ministerial.

<b>CHAPTER 5 SECTION AMENDMENT</b> (S) Standard; (G) Guideline	<b>SUMMARY OF AMENDMENT</b>
5.1 Central Pine Barrens overall area	Adds references to the Act Clarifies continuance of pre-existing uses, refers to Section 57-0123(3)(a) of the Act
5.3.1 Applicability and other policies	Adds reference to updated agricultural manual and requirements to obtain other required permits
5.3.2 State Environmental Quality Review Act	Adds term “development”
5.3.3 Intent and Compatible Growth Area standards	Changed term from law to requirement
S 5.3.3.1 Sanitary waste, nitrate-nitrogen and other chemicals of concern	Expanded title to include “sanitary waste” and “other chemicals of concern” and preamble to include reference to contaminants of anthropogenic origin
S 5.3.3.1.1 Suffolk County Sanitary Code Article 6 compliance	Adds title of sanitary code and refers to “development”
S 5.3.3.1.2 Sewage treatment plant discharge	Change of term from “denitrification” to “treatment” systems
S 5.3.3.1.3 Suffolk County Sanitary Code Articles 7 and 12 compliance	Existing provision, clarifies policy
S 5.3.3.1.4 Commercial and industrial compliance with the Suffolk County Sanitary Code	New subsection Existing provision, clarifies policy
<b><i>G 5.3.3.1.5 Nitrate-nitrogen</i></b>	<b><i>New subsection Existing provision, clarifies policy Changes language from “may” to “shall” for a project to achieve the concentration of 2.5 mg/l nitrate-nitrogen to protect surface water quality. Removes “for projects in the vicinity of ponds and wetlands” As a Guideline, this only applies to projects defined as DRS, CRA or Assertions of Jurisdiction. Otherwise Guidelines are advisory in their application.</i></b>
5.3.3.3 Wellhead and groundwater protection	Adds reference to applicable State Code provision
S 5.3.3.3.1 Significant discharges and public supply well locations	Clarifies standard Removes term “nearby”
5.3.3.4 Wetlands, and surface waters and stormwater runoff	Combines standards, elaborates on application and regulations
<b><i>S 5.3.3.4.1 Nondisturbance buffers</i></b>	<b><i>Elaborates on habitat protection, adds Commission oversight to protect habitats such as vernal ponds on those sites not subject to other regulatory authority</i></b>

CHAPTER 5 SECTION AMENDMENT (S) Standard; (G) Guideline	SUMMARY OF AMENDMENT
S 5.3.3.4.2 Wild, Scenic and Recreational Rivers Act compliance	Combines existing standards
S 5.3.3.4.3 Stormwater recharge	Combines existing standards Changes terms “must” to “shall” and “property” to “project site”
<b><i>S 5.3.3.4.4 Reduction of Impervious Surfaces</i></b>	<b><i>Clarifies existing practice and refers to open space standard</i></b>  <b><i>Codifies existing practice consistent with amendment to open space standard</i></b>  <b><i>All sites required to conform to open space standard whether or not the site is vegetated.</i></b>
S 5.3.3.4.5 Natural recharge, drainage, and ponds	New subsection Reiterates existing provision
5.3.3.6 Natural vegetation and plant habitat Coordinated design for open space, habitat and soil protection	Elaborates on preamble, planning and design to maximize preservation of open space, expounds upon background
S 5.3.3.6.1.1 Non-contiguous parcels	New subsection Existing practice
S 5.3.3.6.1.2 Split zoned sites	New subsection Existing practice
S 5.3.3.6.1.3 Residential Overlay Districts, PBCs and clearing limits	New subsection Existing practice based on resolution 9/26/01 and 9/20/17
S 5.3.3.6.1.4 Environmental restoration	New subsection Existing practice
S 5.3.3.6.1.5 Hardship requirement for relief of clearing limits	New subsection Existing requirement Clarifying see 4.5.2
S 5.3.3.6.1.6 Split Core/CGA parcels and clearing	New subsection Existing policy in the Plan, separated
<b><i>S 5.3.3.6.1.7 Cleared sites</i></b>	<b><i>New subsection</i></b> <b><i>Clarification, may conflict with open space standard</i></b>
<b><i>5.3.3.6.2 Open space standard requirement, unfragmented open space and habitat</i></b>	<b><i>Elaborates on unfragmented open space and related principles of conservation design</i></b>
S 5.3.3.6.3 Fertilizer-dependent vegetation limit	Refers to native plants and restoration activity
S 5.3.3.6.4 Native plantings Figure 5-2: Planting recommendations	Expands plant list of acceptable and unacceptable plants
S 5.3.3.6.5 Receiving entity and protection for open space areas	New subsection Existing provision, elaborates on decision
S 5.3.3.6.6 Buffer delineations, covenants and conservation easements	New subsection Existing provision

CHAPTER 5 SECTION AMENDMENT (S) Standard; (G) Guideline	SUMMARY OF AMENDMENT
<i>S 5.3.3.6.7 Invasive plant species mitigation</i>	<i>New subsection New standard applies to sites that preserve 10 acres or more of open space to identify extent of invasives in open space.</i>
<i>G 5.3.3.6.7.1 Invasive Species Mitigation</i>	<i>New subsection Permits removal of invasives on no more than two acres</i>
<i>Figure 5-1: Clearance and Open Space Standards</i>	<i>Amended figure quantifies open space percentage requirement as opposite of clearing percentage. Clearing percentage reduced from 65% to 60% for “all other zoning categories” such as schools and libraries. Permits state and public corporations to clear 60% where currently the uses may be in more restrictive residential zoning districts.</i>
5.3.3.7 Protection and conservation of species and communities	Elaborates on preamble, adds reference to songbirds, forest interior, and other groups of birds
S 5.3.3.7.1 Special species and ecological communities	Word clarification
<i>G 5.3.3.7.2 Bird conservation and protection</i>	<i>New. Suggests design elements to reduce bird collisions</i>
<i>5.3.3.9 Dark sky compliance</i>	<i>New. Preface to standard, explains effects of light pollution</i>
<i>S 5.3.3.9.1 Light pollution prevention</i>	<i>New. Applies only to project not subject to municipal review</i>
5.3.3.11 Scenic, historic and cultural resources	Elaborates preamble and refers to new Chapter 4 definition of Tall Structure. Refers to applying to projects not subject to local review.
<i>G 5.3.3.11.1 Tall structures and scenic resources</i>	<i>New. Has minimal application only to projects not subject to local municipal review</i>
G 5.3.3.11.2 Cultural resource consideration	Adds reference to views identified and listed in Volumes 1 and 2
G 5.3.3.11.3 Inclusion of cultural resources in applications	Existing provision, renumbered
G 5.3.3.11.4 Protection of scenic and recreational resources	Existing provision, renumbered
G 5.3.3.11.5 Roadside design and management	Existing provision, renumbered.

<b>CHAPTER 5 SECTION AMENDMENT</b> (S) Standard; (G) Guideline	<b>SUMMARY OF AMENDMENT</b>
Figure 5-2: Scenic Roads and Areas in the Central Pine Barrens	New Figure 5-2 provides list of existing scenic roads and areas in the Central Pine Barrens

**FIGURE 13-3: CHAPTER 6 SUMMARY LIST OF AMENDMENTS**

Chapter 6 amendments are considered ministerial and advance in the Ministerial Amendments Alternative.

<b>CHAPTER 6 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>
6.3 Allocation of Pine Barrens Credits	Memorialized Carmans River expansion, clarified date from which PBC allocation is computed and date affected by Carmans River Watershed expansion
6.3.1 Method of allocation	Clarified date from which PBC allocation is computed and date affected by Carmans River Watershed expansion
6.4.2.1 Brookhaven Pine Barrens Credit Program overview	Changed headings in section to add “As of Right” and “Non As of Right” redemptions
6.4.2.2 Brookhaven “As of Right” Residential Overlay District specifications	Added term “As of Right” in heading and changed “may” to “shall” in reference to allowing PBCs in RODs
6.4.2.2.4 Brookhaven criteria	Clarification of criteria
6.4.2.3 Innovative strategies for the redemption of Brookhaven Pine Barrens Credits	Word change from abbreviated “R” districts to “residential” districts
6.4.2.4.1 Transfers from Hydrogeologic Zone 3 to Hydrogeologic Zone 6	Clarified location of Hydrogeologic Zone 6
Figure 6-3: Brookhaven Residential Overlay District as of right receiving area map	Map title addition for clarification
Figure 6-4: Riverhead as of right receiving area map - Area “A” Calverton	Map title addition for clarification
Figure 6-4 (p.2): Riverhead as of right receiving area map - Area “B” West Main Street	Map title addition for clarification
New Figure with new Receiving Areas (no figure #)	New Figure Wading River and Riverhead Receiving Areas, B&C are new
Figure 6-5 (p2)	Amended list of RAs to reflect new receiving area parcels
Figure 6-7: Southampton as of right receiving area map	Updates map, no substantive change
Figure 6-7 (p.2): Southampton as of right receiving area map	Updates map, no substantive change
Figure 6-7 (p.3): Southampton as of right receiving area map	Updates map, no substantive change
Figure 6-7 (p.4): Southampton as of right receiving area map	Updates map, no substantive change
Figure 6-7 (p.5): Southampton as of right receiving area map	Updates map, no substantive change
6.4.5 Suffolk County Sanitary Code	Word edit, no substantive change
6.5.4 Intermunicipal redemptions of Pine Barrens Credits	New section Clarification of policy

<b>CHAPTER 6 SECTION AMENDMENT</b>	<b>SUMMARY OF AMENDMENT</b>
6.5.5 Permanency of Pine Barrens Credit Redemptions	New section Confirmation of policy that PBC redemptions are not temporary
6.5.6 Redemption of Pine Barrens Credits within the Core Preservation Area prohibited	New section Reiterating intent of the Act to redirect development from the Core and not retire PBCs in Core
6.7.3 Detail of Step 1: Obtaining a Letter of Interpretation	Clarification of time period to review Letter of Interpretation
6.7.3.4 Written appeal request timeframe	Clarification of review of appeal and hearing opportunity
6.7.3.5 Deciding the appeal	Clarification of policy after appeal is heard and issuance of final allocation
6.7.4.3 Acceptable title report	Clarification of conservation easement acceptance
6.7.6.6 Issuance of a full Pine Barrens Credit for certain roadfront parcels	Clarification of roadfront parcel allocation
6.7.6.8 Issuance of Pine Barrens Credits to a Parcel with a Land Use Violation	New section Provides clarity that violations of the Act must be resolved, where applicable, before PBCs can be issued
6.7.6.9 Transactions involving Pine Barrens Credits	New section Clarifies numeric rounding figure in PBC transactions

## **D. ALTERNATIVES—ECOLOGICAL RESOURCES IMPACTS**

The Alternatives Analysis is limited based on the nature of the proposed action, potential impacts of the Plan Amendments, and the feasibility of alternatives. The No Action Alternative and Ministerial Amendments Alternative are analyzed in this section for potential adverse environmental impacts.

### **NO ACTION ALTERNATIVE**

The No Action Alternative demonstrates environmental conditions that would exist if the Proposed Action were not implemented.

#### *CHAPTER 4: REVIEW PROCEDURES AND JURISDICTION*

##### *Section 4.3.9 Project Site*

In the No Action Alternative, the project site definition would not be clarified, however, the Commission will continue with its current practice to define development project sites by identifying all parcels involved in a development project, their ownership, area, zoning and any other elements relevant to the project. No defined term presently exists in the Plan, however, the current practice of the Commission is to define the project site involved in a development project, that would include non-contiguous parcels. The No Action Alternative would not provide the opportunity to clearly define and establish what is considered the project site. This

could continue some ambiguity and conflict in project review and may affect how standards are applied to the project site.

## *CHAPTER 5: STANDARDS AND GUIDELINES FOR LAND USE*

### *Standard 5.3.3.4.1 Nondisturbance Buffers*

In the No Action Alternative, nondisturbance buffers would be defined as they are today. In the absence of the Plan Amendments, for instance, resources such as vernal ponds that may contain significant natural resources to be overlooked in the planning process and not identified in the review of existing conditions on a site. Consequently, nondisturbance buffers will not be established to protect the integrity and quality of existing wetland habitats on or in proximity to a project site. Wetland protection will not occur if the wetland habitats are either 1) not regulated, 2) not identified by another agency, or 3) not identified and delineated by the applicant. A lack of wetland identification, delineation, and protection may cause valuable natural features to be disturbed or directly lost, resulting in adverse impacts on ecological resources.

In the No Action Alternative, the amendments to the standard addressing nondisturbance buffers would not be advanced. Development projects reviewed by the Commission but not subject to local review by municipal agencies such as utilities may adversely impact unmapped freshwater wetland habitat if measures are not implemented to identify water and ecological resources.

### *Section 5.3.6.6 Coordinated Design for Open Space, Habitat, and Soil Protection*

In the No Action Alternative, clearing and open space standards would be defined as they are in the Plan today. The clearing limit is calculated over the project site, and the amount that remains natural is the default area of open space. The existing Unfragmented Open Space Standard aims to set aside open space in the largest unfragmented block possible on a project site. In the No Action Alternative, the Plan would continue with a lack of specificity quantifying the amount of open space required to be set aside on a development project.

In the No Action Alternative, the self-heal restoration standard would not be implemented. Presently, the Plan does not contain a standard that describes active or passive restoration activities on a project site. Restoration is typically a mitigation measure reviewed in a hardship waiver application and it occurs through active planting and revegetation efforts. It does not account for opportunities to utilize the existing native seed bank in the soil, termed “seed memory,” and allow a site to undergo a self heal restoration process through natural or passive restoration.

In the No Action Alternative, the new Standard 5.3.3.4.4, Reduction of Impervious Surfaces, will not be advanced. Project sites that are overcleared with impervious surfaces will continue to be redeveloped to an extent potentially in excess of current standards. Since the CGA is intended to serve as an ecological buffer to the Core, in the No Action Alternative, the Plan fails to achieve



this goal. Impervious surfaces in the CGA will not be reduced, and the CGA will continue to remain overcleared and overdeveloped where those project sites presently exist. Potential impacts from stormwater runoff and contaminants and heat island effect remain with no opportunity to improve habitat quantity and quality within the CGA and adjacent to the Core.

In the No Action Alternative, conservation design is not implemented. Conservation design was envisioned in the 1995 GEIS and discussed in Volume 2 of the CLUP. This approach has been extensively researched and proven as an effective strategy in open space conservation and the protection of ecological resources. The amendments prioritize habitat protection and direct the clustering of land use development and creating unfragmented open space in a development project. This method would not be advanced in the No Action Alternative.

In the No Action Alternative, the General Planting Recommendations list would remain the same as it is today, with limited species and guidance to reviewers and applicants in designing active restoration and landscape plans. The planting list would not be updated with current and expanded species lists that provide greater awareness and opportunities in site planting, restoration, and management of landscapes in development project sites and planting specifications including spacing, size and quantity would also not be advanced.

In the No Action Alternative, invasive species mitigation is not specified as an opportunity and management technique on a project site. Invasive species exist on development project sites, would continue to not be addressed and potentially expand in coverage and composition. The standard would not be implemented where it may provide an opportunity to actively or passively restore a habitat with native species and improve native species habitat quality and quantity.

In the No Action Alternative, amendments to Standard 5.3.3.6 that quantify open space requirements, control invasive plant species, and reduce impervious surfaces will not be advanced. Current practice, such as the existing application of the clearing standard to a project site, will continue.

Standards that apply to bird conservation and tall structures will not be advanced. Opportunities to reduce the significant number of incidents of bird and bat collisions with structures will not be implemented in the region. Adverse impacts on individuals of species and wildlife populations will occur, and the result will be a continuation of significant and avoidable wildlife mortality in the region.

## **MINISTERIAL AMENDMENTS ALTERNATIVE**

In the Ministerial Alternative, all minor and administrative amendments including edits and combining similar sections to the Plan will advance. This set of amendments results in no adverse environmental impacts. It would allow clarification of terms, solidify existing and past practice and amend the Plan for greater efficiency in the review process by eliminating

redundancy. It would be a positive change to update the Plan and would have no adverse environmental impacts.

## **E. ALTERNATIVES—WATER RESOURCES**

### **NO ACTION ALTERNATIVE**

In the No Action Alternative, the new amendment to DRS Section 4.5.5.2, #4 Water Table Exposure will not be adopted. This type of project will not be reviewed by the Commission unless its review falls under the jurisdiction of the Commission or the Commission is an involved agency pursuant to SEQRA.

Nondisturbance buffer requirements on projects not subject to local review, such as utilities, schools, and libraries, will not be advanced in the No Action Alternative, potentially impacting surface water and groundwater resources in the Central Pine Barrens.

### **MINISTERIAL AMENDMENTS ALTERNATIVE**

Standards and Guidelines that pertain to water resources would generally be updated in a ministerial fashion that avoids adverse environmental impacts. Where more substantive amendments are proposed on matters pertaining to water resources, such as the DRS definition in Section 4.5.5.2 #4, these amendments would not be advanced in the Ministerial Amendments Alternative. The impact of advancing only ministerial amendments is a lost opportunity to ensure protection of water resources, particularly groundwater resources exposed to contaminants and open water safety hazards, among other potential environmental changes and conditions affecting groundwater resources.

## **F. ALTERNATIVES—GEOLOGICAL RESOURCES**

### **NO ACTION ALTERNATIVE**

In the No Action Alternative, sites that are entirely cleared or overcleared that are presently in active agricultural use and contain agricultural resources could be developed, potentially permanently removing existing soil resources. Existing Standards and Guidelines do not require the preservation of an agricultural reserve when an agricultural use is converted to a non-agricultural land use.

Similarly, on a project site that is excessively cleared or developed, proposed redevelopment could occur to the extent of the existing limits of disturbance. In that instance, no natural open space is required to be set aside, unless the applicant voluntarily proposes natural open space or buffers or another regulatory authority requires open space.

Absent the Plan Amendments, the existing Plan would continue to be implemented. Land use development projects in the CGA would require conformance with Standards and Guidelines, as applicable. No Plan Amendments are proposed in Chapter 5, Section 5.3.3.8 Soils. Therefore, in

the No Action Alternative, implementation of the Plan is expected to continue. No changes will occur that affect the protection of soils, slopes, and topographic features on a project site.

Indirect beneficial effects of the preservation of soil resources may result in protection of turtles and other burrowing wildlife in terrestrial ecological communities. If a significant amount of soil on a site is excavated and removed, it may disturb nesting individuals such as turtles, salamanders and toads, which may not be visible in the terrain outside of seasonal breeding activity.

## **MINISTERIAL AMENDMENTS ALTERNATIVE**

All of the Plan Amendments identified as ministerial in Chapters 4, 5, and 6 will be advanced in this Alternative, and some of which relate to prioritizing the protection of soils and topography on a development project site.

Although more substantive open space standards that prioritize resource protection, including soils and geologic features, will not be advanced. The ministerial amendments in Chapter 5 will advance provisions that minimize stormwater runoff and erosion and support natural recharge and drainage in the Central Pine Barrens, where applicable and feasible.

## **G. ALTERNATIVES- SCENIC, HISTORIC AND CULTURAL RESOURCES**

### **NO ACTION ALTERNATIVE**

#### *Standard 5.3.3.9.1 Light pollution prevention*

In the No Action Alternative, the light pollution prevention standard would not be adopted. As a result, development projects that are not subject to review by local regulatory authorities and required to conform to Town Code regulations would not be subject to dark skies provisions and protection. Projects such as these may include schools, libraries, and private utility facilities.

If the amendment is not adopted, it may result in light pollution development project sites to occur that impact neighboring communities and resources in the Central Pine Barrens. Projects not subject to local jurisdiction may impact the Central Pine Barrens region and impact the landscape in an inconsistent pattern, where two adjacent sites, for example, may be subject to different requirements. In the No Action Alternative, a project site in a scenic viewshed, which contains a scenic resource, or which is adjacent to a cultural resource, may propose lighting conditions that result in impacts to dark skies adversely impacting these scenic and cultural resources. These dramatic differences and inconsistencies in the landscape may result in adverse impacts in the Central Pine Barrens. Applying potentially different design standards on sites in the same area or region may result in adverse impacts on landscapes and scenic and cultural resources in the Central Pine Barrens.

#### *Guideline 5.3.3.11.1 Tall Structures and Scenic Resources*

In the No Action Alternative, the definition of tall structures in Chapter 4, Review Procedures, and this Guideline, which requires review of tall structures, would not be advanced. As a result, projects that are not subject to Town Code regulations would not be subject to the amendments either and may go unchecked in the environmental review process. Examples of such projects may include, but not be limited to, schools, libraries, and private utility facilities.

If the amendment is not adopted, tall structures may be developed in the Central Pine Barrens region and may result in adverse impacts on viewsheds, scenic and cultural resources in the region. This would conflict with the goals of the Act to accommodate compact, efficient, and orderly development in the Central Pine Barrens.

#### **MINISTERIAL AMENDMENTS ALTERNATIVE**

All of the Plan Amendments identified as ministerial in Chapters 4, 5, and 6 will be advanced in this Alternative, which includes minor changes to update text, section titles, references, and codify past practice or precedent.

Non-ministerial amendments will not be advanced in this alternative. Non-ministerial amendments are expected to protect the integrity of the region's scenic, historic and cultural resources in the CGA. Absent the non-ministerial amendments, such resources may be diminished in quality over time. If non-ministerial amendments such as the open space standard are not amended, opportunities will be lost to preserve the CGA's integrity and its representative resources through setting aside open space when redevelopment occurs on an overcleared or overdeveloped site.

In other cases, where culturally important or historic structures exist on scenic roads, the development and presence of new tall structures may be inconsistent in the landscape and interfere with the protection of resources. Development in the CGA can and must be accommodated, however, it must not adversely affect the resources that the Act and Plan were designed to protect. Resources should not be degraded over time either directly or indirectly. To truly achieve the vision outlined in the legislation, the Plan must continue to be examined to address emerging issues and address gaps where they exist to minimize adverse impacts from human influence. This Alternative meets immediate administrative needs where the Plan may be vague or not reflective of current practice. However, it does not fulfill the Act's directive to the Commission to update the Plan as appropriate on a five-year cycle and does not account for the years of exhaustive review expended to examine the Plan.

## **H. ALTERNATIVES-GROWTH INDUCING ASPECTS**

### **NO ACTION ALTERNATIVE**

Growth inducing aspects of the No Action Alternative may occur in the form of greater density or intensity of land uses in the Compatible Growth Area. In the No Action Alternative, overcleared sites that predate the 1993 when the Long Island Pine Barrens Protection Act was adopted and where development occurs would continue to lack conformance with standards including the clearing limit. Those sites that are overcleared and are redeveloped may be developed to a greater extent than what the Plan Amendments permit.

Absent the amendments, there is a lost opportunity to reclaim natural open space in the CGA. The Act set a threshold for a development activity in the CGA to conform with the Plan. However, the interpretation to date has been to “grandfather” a site’s overcleared condition and consider it conforming to the extent it can be. Without amendments to clarify the intent of the Act and the Plan and apply standards, development projects on overcleared sites are essentially precluded from conformance. They will continue to be developed in a pattern that is inconsistent with their counterparts that are naturally vegetated and are subject to Plan restrictions such as clearing on a naturally-vegetated sites. The open space standard requires open space regardless of a site’s overdeveloped or overcleared existing conditions. Therefore, the No Action Alternative may result in growth inducing impacts as it would continue the trajectory that is presently occurring.

### **MINISTERIAL AMENDMENTS ALTERNATIVE**

Only ministerial amendments to the Plan would be considered for approval in the Ministerial Amendments Alternative. No growth inducing impacts will occur as a result of the Ministerial Amendments Alternative. The Ministerial Amendments propose minor editorial and administrative word and term changes and amendments that incorporate changes that reflect decisions to date and policies presently in place. No amendments to the DRS definitions in Chapter 4 would be considered, and no substantive changes or newly proposed standards or guidelines in Chapter 5 would be considered for adoption.

## **Appendices**

**Chapter 4: Review Procedures and Jurisdiction**

**Chapter 5: Standards and Guidelines for Land Use**

**Chapter 6: Pine Barrens Credit Program**



## **4. Review Procedures and Jurisdiction**

### **4.1 Introduction** *(amended 5/16/12)*

The following sets forth the procedures to be used by the Central Pine Barrens Joint Planning and Policy Commission for review of development in the Central Pine Barrens as provided for in the Long Island Pine Barrens Protection Act.

This process does not exempt any development project from the provisions of the New York State Environmental Quality Review Act, the National Environmental Policy Act and other regulatory requirements and applicable federal, state, county, or local laws. For development that adheres to the standards for land use contained herein and the Statement of Findings adopted upon completion of the Generic Environmental Impact Statement prepared pursuant to the Act, the cumulative impact analysis pursuant to the State Environmental Quality Review Act will be deemed to be satisfied.

### **4.2 Intent**

It is the intent of the Central Pine Barrens Joint Planning and Policy Commission to provide for effective environmental review of proposed development in the Central Pine Barrens, and to avoid duplicate reporting and review requirements and unnecessary delays. Municipalities are encouraged to develop streamlined review procedures for development proposals that conform with the land use and development standards contained herein. It is the further intent of the Commission to provide timely reviews and input which are concurrent with the New York State Environmental Quality Review Act, the National Environmental Policy Act and other regulatory requirements and applicable federal, state, county, or local laws.

These procedures are intended to coordinate Commission guidance and provide regulatory review of development located in the Central Pine Barrens area as defined and delineated in the New York State Environmental Conservation Law, Article 57. The Central Pine Barrens is a "critical environmental area" pursuant to New York State Environmental Conservation Law Article 8 and its implementing regulations.

The Commission will participate in and sponsor, where appropriate, intergovernmental agency coordination, including but not limited to interagency data sharing and license agreements, in order to provide efficient application review and further the goals and objectives of Article 57.

For development subject to review pursuant to the Act and defined in this Plan, the Commission shall hold only one (1) hearing on a development proposal, unless the Commission by majority vote deems it necessary to hold an additional hearing.



The Commission encourages cooperative efforts with local, state, federal and not-for-profit agencies for the use of Geographic Information Systems (GIS) and other mapping alternatives in order to track development permits and analyze land use patterns within the Central Pine Barrens.

### **4.3 Definitions**

~~For the purposes of these procedures~~ Within this Central Pine Barrens Comprehensive Land Use Plan, the following terms and phrases shall have the meaning listed.

#### **4.3.1 Complete application**

A "complete application" shall consist of the following:

1. a completed standard application form, as supplied by the Commission;
2. a copy of the local municipal application package with all supporting materials, and any approvals that have been issued as of the date of the application; and,
3. as required and accepted with respect to scope and content, a Long Form Environmental Assessment or Draft Supplemental draft supplemental Environmental Impact Statement, in addition to any other documentation prepared or issued pursuant to the State Environmental Quality Review Act or equivalent local laws, as of the date of the application.

#### **4.3.2 Plan**

"Plan" shall mean the Central Pine Barrens Comprehensive Land Use Plan, ~~Volume 1~~ as defined within the New York Environmental Conservation Law Article 57.

#### **4.3.3 Commission** *(amended 5/16/12)*

"Commission" shall mean the Central Pine Barrens Joint Planning and Policy Commission as defined within the New York Environmental Conservation Law Article 57.

#### **4.3.4 Act** *(amended 5/16/12)*

"Act" shall mean New York State Environmental Conservation Law, Article 57 as may be amended from time to time.

#### **4.3.5 Development**

"Development" shall have the meaning set forth in Section 57-0107 (13) of the Act.

#### **4.3.5.1 Interpretation of “nondevelopment” provision 57-0107(13)(xiii)**

The Commission hereby clarifies that Article 57-0107(13)(xiii) only regulates the lot area requirement as indicated by the square footage required within the applicable zoning district and does not include any other dimensional variances associated with the subdivision. The Commission further clarifies that Article 57-0107(13)(xiii), as a whole, shall be applied to any compliant parcel once and shall not be applied to parcels that are capable of further subdivision which result from this land division or subdivision.

#### **4.3.6 Central Pine Barrens** *(amended 5/16/12)*

"Central Pine Barrens" shall have the meaning set forth in Section 57-0107 (10) of the Act.

#### **4.3.7 Core Preservation Area** *(amended 5/16/12)*

"Core Preservation Area" shall have the meaning set forth in Section 57-0107 (11) of the Act.

#### **4.3.8 Compatible Growth Area** *(amended 5/16/12)*

"Compatible Growth Area" shall have the meaning set forth in Section 57-0107 (12) of the Act.

#### **4.3.9 Project Site**

“Project site” shall be defined as all parcels and portion(s) of parcel(s) located within the Central Pine Barrens, whether contiguous or not, that are associated with a proposed development.

#### **4.3.10 Self-Heal Restoration, Self Restoration**

Self-Heal Restoration, Self Restoration: A process in which revegetation of a previously-disturbed site, such as one on which natural vegetation has been removed or degraded and which may have areas of bare soil and disturbed soil horizons, is allowed to occur without importation of plant material, active planting, transplanting of vegetation obtained from off-site or reseeding of vegetation. Instead, existing live seed banks, rhizomes, roots, etc. which remain beneath or adjacent to the disturbed area are permitted to re-colonize the disturbed area. Under this process, active monitoring is undertaken for a prescribed period of years to ensure that invasive plant species do not overtake the restoration and physical intervention to remove the invasive species may also be conducted. Continued maintenance and monitoring after the prescribed period is encouraged.

#### **4.3.1011 Tall Structure**

“Tall structure” shall be defined as any structure, whether a new structure or one resulting from a height extension of an existing structure, which meets or exceeds a total height of fifty-seventy-

five (5075) feet from average unaltered grade of the project site.

#### **4.4 Development subject to review by the Commission**

The following types of development shall be the subject of review by the Commission as provided for in the Act:

##### **4.4.1 Development located within the Core Preservation Area**

This includes all development proposed within the Core Preservation Area.

##### **4.4.2 Nonconforming development within the Compatible Growth Area**

This includes all development within the Compatible Growth Area that does not conform to the standards for land use set forth in Volume 1, Chapter 5 of this Plan.

##### **4.4.3 Compatible Growth Area development over which the Commission asserts jurisdiction**

This includes development within the Compatible Growth Area for which the Commission, by an individual Commissioner's petition and a majority vote, asserts review jurisdiction as provided for in the Act.

##### **4.4.4 Compatible Growth Area development within Critical Resource Areas**

This includes all development within the Compatible Growth Area which is also within a Critical Resource Area as provided for in the Act and defined in this Plan.

##### **4.4.5 Developments of Regional Significance**

This includes development within the Compatible Growth Area which constitutes a Development of Regional Significance as provided for in the Act and defined in this Plan.

#### **4.5 Review procedures**

##### **4.5.1 Development located within the Core Preservation Area (“Core development”)** *(amended 5/16/12)*

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.

**4.5.1.1 Core development: Lead agency assertion** *(amended 5/16/12)*

The Commission shall seek lead agency status for development proposed in the Core Preservation Area pursuant to the State Environmental Quality Review Act.

**4.5.1.2 Core development: Filing of an application** *(amended 5/16/12)*

The application shall be filed with the Commission by the project sponsor. A municipal application to the Town is not required for an application under this subsection.

**4.5.1.3 Core development: Hearing** *(amended 5/16/12)*

Within thirty (30) days of an application being submitted to the Commission, a public hearing on the development shall be held. At this time, the project sponsor and any other person shall have an opportunity to comment on the development proposal.

**4.5.1.4 Core development: Statutory basis for the Commission's decision** *(amended 5/16/12)*

The decision by the Commission on the application shall be based upon the standards in subdivision 10 of Section 57-0121 of the Act, which describes the criteria for determining that a hardship has been demonstrated.

**4.5.1.5 Core development: Decisions, default decisions and extensions of decisions** *(amended 5/16/12)*

The time within which the Commission must decide a Core Preservation Area hardship application for which a negative declaration has been made by the Commission pursuant to Environmental Conservation Law Article 8 is one hundred twenty (120) days from receipt of such application. The time within which the Commission must decide a Core Preservation Area hardship application for which a positive declaration has been made by the Commission pursuant to Environmental Conservation Law Article 8 is sixty (60) days from issuance of a findings statement by the Commission pursuant to Environmental Conservation Law Article 8. If the Commission fails to make a decision within the aforesaid time periods, the development shall be deemed to be approved by the Commission, unless such time periods are extended by mutual agreement of the applicant and the Commission.

**4.5.2 Development located within the Compatible Growth Area which does not conform to the standards contained in Volume 1, Chapter 5 of the Plan (“nonconforming development”)**

The Act sets forth the jurisdiction for the Commission's review of development within the Compatible Growth Area of the Central Pine Barrens area. Such review includes development that does not conform to the standards in Volume 1, Chapter 5 of this plan. The Act also authorizes the Commission, by majority vote, to waive strict compliance with the standards upon finding that such waiver is necessary to alleviate a demonstrated hardship. The Commission shall not review conformance or nonconformance with guidelines in Volume 1, Chapter 5 in evaluating hardship provisions under this section.

#### **4.5.2.1 Nonconforming development: Filing of an application**

For projects that are not consistent with the standards, a complete application shall be filed with the Commission by the project sponsor.

#### **4.5.2.2 Nonconforming development: Changes in consistent projects *(amended 5/16/12)***

If, during the local review, a proposed development project is modified such that the local municipality finds that it becomes inconsistent with any standard in Volume 1, Chapter 5, the local municipality shall notify the Commission and the project sponsor immediately. Upon receipt of said notice, the project sponsor shall be notified that an application for hardship relief as provided herein shall be required. Alternatively, the project sponsor shall be afforded an opportunity to revise the development project so that it is consistent with the standards.

#### **4.5.2.3 Nonconforming development: Completeness determination deadline**

The Commission shall make a determination as to whether an application is complete within thirty (30) days of receipt of the application.

#### **4.5.2.4 Nonconforming development: Review standards *(amended 5/16/12)***

The Commission's standard for review pursuant to this section shall be the hardship standard provided in Section 57-0123(3) of the Act, as amended from time to time.

#### **4.5.2.5 Nonconforming development: Hearing *(amended 5/16/12)***

Within thirty (30) days of the application being deemed complete, a public hearing on the development proposal shall be held. The Commission shall provide the project sponsor and any other person an opportunity to be heard as provided for, and in accordance with the procedures provided in the Act.

#### **4.5.2.6 Nonconforming development: Decisions, default decisions and extensions of decisions *(amended 5/16/12)***

The time within which the Commission must make a decision on a Compatible Growth Area

application which does not conform to the standards contained within Volume 1, Chapter 5 of the Plan is one hundred twenty (120) days from said application being deemed complete. If the Commission fails to make a decision within the aforesaid time period, the application shall be deemed to be approved by the Commission, unless such time period is extended by mutual agreement of the applicant and the Commission.

**4.5.3 Development located within the Compatible Growth Area which has been subjected to a petition by the Commission pursuant to ECL Section 57-0123(2) (“assertion development”)**

The Act sets forth the jurisdiction for the Commission's review of development within the Compatible Growth Area of the Central Pine Barrens. The Act authorizes the Commission, through petition by an individual commissioner and an affirmative vote of the Commission, to review any project which has a significant adverse impact on the goals of the Plan.

**4.5.3.1 Assertion development: Assertion of jurisdiction by the Commission over the project** *(amended 5/16/12)*

Upon a majority vote of the commissioners, the Commission may assert review jurisdiction over said project.

**4.5.3.2 Assertion development: Hearings and assertion of review jurisdiction**

Assertion of review jurisdiction by the Commission shall not be deemed to require a public hearing unless the Commission, by a majority vote, so specifies.

**4.5.3.3 Assertion development: Review standards**

Should the Commission assert review jurisdiction pursuant to this subdivision, the jurisdiction of the Commission shall be limited to compliance with the standards and guidelines set forth in Volume 1, Chapter 5 of this Plan which the Commission identified in the vote on jurisdictional assertion. The Commission shall review conformance with guidelines set forth in Volume 1, Chapter 5 of this Plan and whether the project is in conformance with Article 57-0123(2)(a).

**4.5.3.4 Assertion development: Hearing** *(amended 5/16/12)*

The Commission shall request necessary information from the project sponsor. Within sixty (60) days of the Commission asserting review jurisdiction, a public hearing on the development proposal shall be held, unless the Commission by majority vote deems a hearing unnecessary, in accordance with the procedures provided in the Act. If a hearing is held, the Commission shall provide the project sponsor and any other person an opportunity to be heard as provided for, and in accordance with, the procedures provided in the Act.

**4.5.3.5 Assertion development: Decision on projects over which jurisdiction is asserted by the Commission** *(amended 5/16/12)*

The decision of the Commission on any project which is before it by virtue of the assertion of jurisdiction by the Commission shall be made within one hundred twenty (120) days of the date of said assertion of jurisdiction.

**4.5.3.6 Assertion development: Default decisions** *(amended 5/16/12)*

In the event that the Commission fails to make a decision within one hundred twenty (120) days, the development proposal shall be deemed to be approved by the Commission.

**4.5.4 Development located within the Compatible Growth Area which is also located within a Critical Resource Area (“CRA development”)**

The Act sets forth the jurisdiction for the Commission's review of development within the Compatible Growth Area of the Central Pine Barrens. Such review includes development that is located in Critical Resource Areas. The Act also authorizes the Commission, by majority vote, to waive strict compliance with this Plan upon finding that such waiver is necessary to alleviate a demonstrated hardship.

**4.5.4.1 CRA development: Definition of Critical Resource Areas**

Commission review pursuant to this section shall apply only to the Critical Resource Areas identified in Figures 4-1 through 4-6.

Section 57-0121(6)(e) of the Act requires that this Plan include “Identification and mapping of critical resource areas within the Central Pine Barrens area which are of regional or statewide significance. Such areas shall include fragile lands, significant shorelands of rivers, lakes, and streams; freshwater wetlands; significant wildlife habitats; unique scenic or historic features; and rare or valuable ecosystems and geological formations which are of regional or statewide significance.”

**4.5.4.1.1 Brookhaven Town Critical Resource Areas**

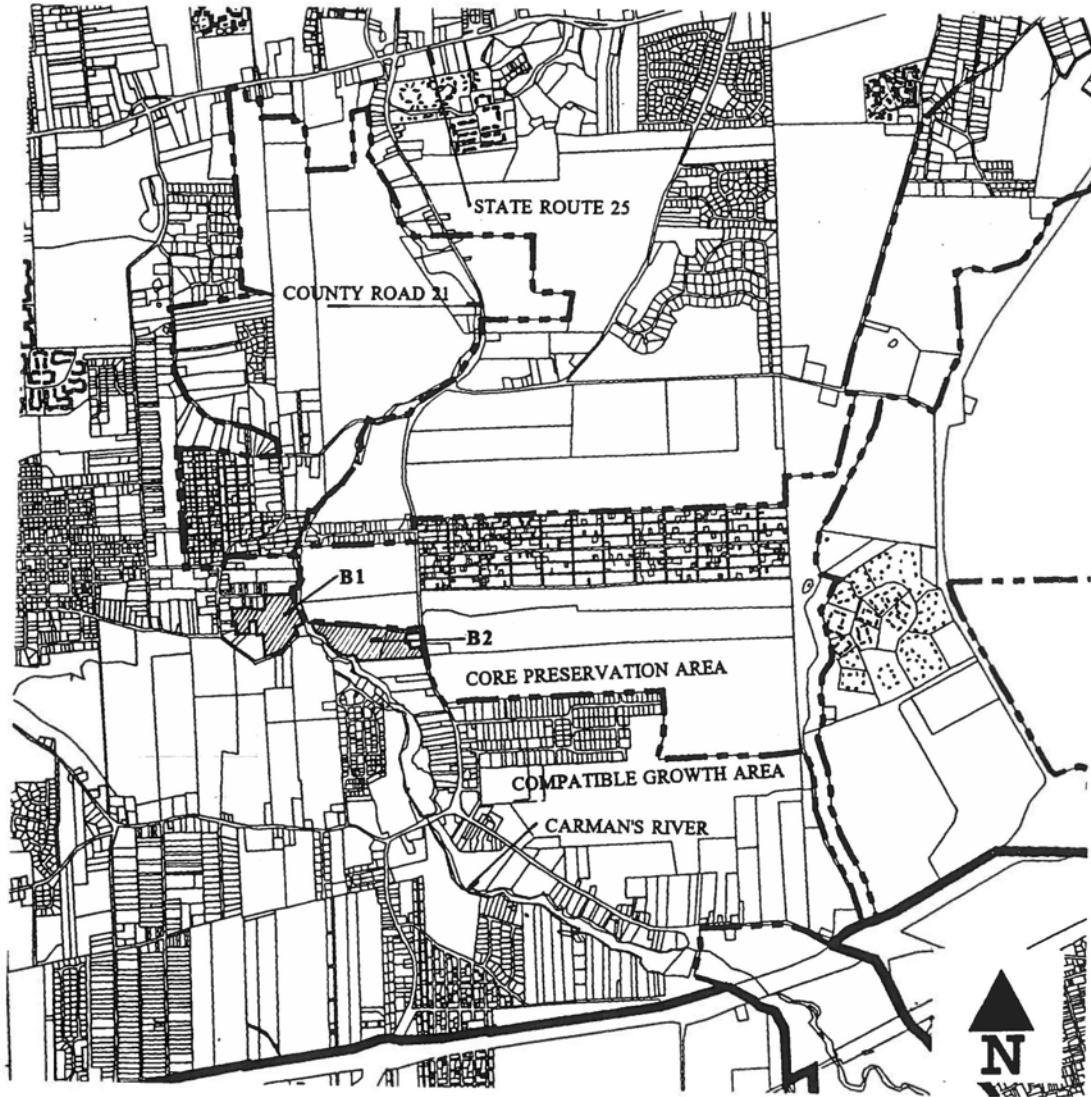
Figure 4-1 depicts existing Critical Resource Areas in the Town of Brookhaven.

**Figure 4-1: Summary of Critical Resource Areas in the Central Pine Barrens**  
*(Resolved by the Commission at its 12/14/94 meeting. All sites are within the Compatible Growth Area.)*

Name and Description	Tax Map Number and Approximate Size	Feature(s)
<p>Carmans River West Middle Island West bank of Carmans River, opposite Carmans River East site. <i>See B1 on Figure 4-2</i></p>	<p>0200-528-06-16.2 Approx. 24.5 acres.</p>	<p><i>Sending area.</i> Steep slopes (entire site), cultural resources, atypical wetland vegetation association on upland portion, exploitably vulnerable species (e.g., prickly pear, spotted wintergreen, trailing arbutus, mountain laurel), large hardwood forest, DEC freshwater wetland (B-3), riverfront open space. <u>Ownership: Suffolk County.</u></p>
<p>Carmans River East Middle Island East bank of Carmans River, opposite Carmans River West site. <i>See B2 on Figure 4-2</i></p>	<p>0200-548-02-1.4 and 1.6 Approx. 28 acres.</p>	<p><i>Sending area.</i> Steep slopes (especially from 60 foot contour to the west and the river, steeply sloped swales (possibly an early Holocene drainage formation), cultural resources with high archaeological potential, and extensive freshwater wetlands with associated vegetation (e.g., pepperbush, red maple, black gum) exist on this site. <u>Ownership status: Unknown.</u></p>
<p>South Manorville Site 1 South of Hot Water Street, west of CR 111. <i>See B3 on Figure 4-3</i></p>	<p>0200-510-02-01, 2.2, 3,4 Approx. 82 acres.</p>	<p>The partially county-owned Cranberry Pond to the immediate north of this site is a documented tiger salamander habitat, and this site contains much of the upland portion of that habitat (generally estimated as approximately 1000 feet from the southern shore). This hilly site also contains the area known as Punk's Hole, a Revolutionary War bivouac site. <u>Ownership: Suffolk County.</u></p>
<p>South Manorville Site 2 South of Hot Water Street, west of CR 111. <i>See B4 on Figure 4-3</i></p>	<p>0200-561-01-12, 13 Approx. 18 acres.</p>	<p>This site enhances the adjacent open space tracts. <u>Ownership: Suffolk County .</u></p>

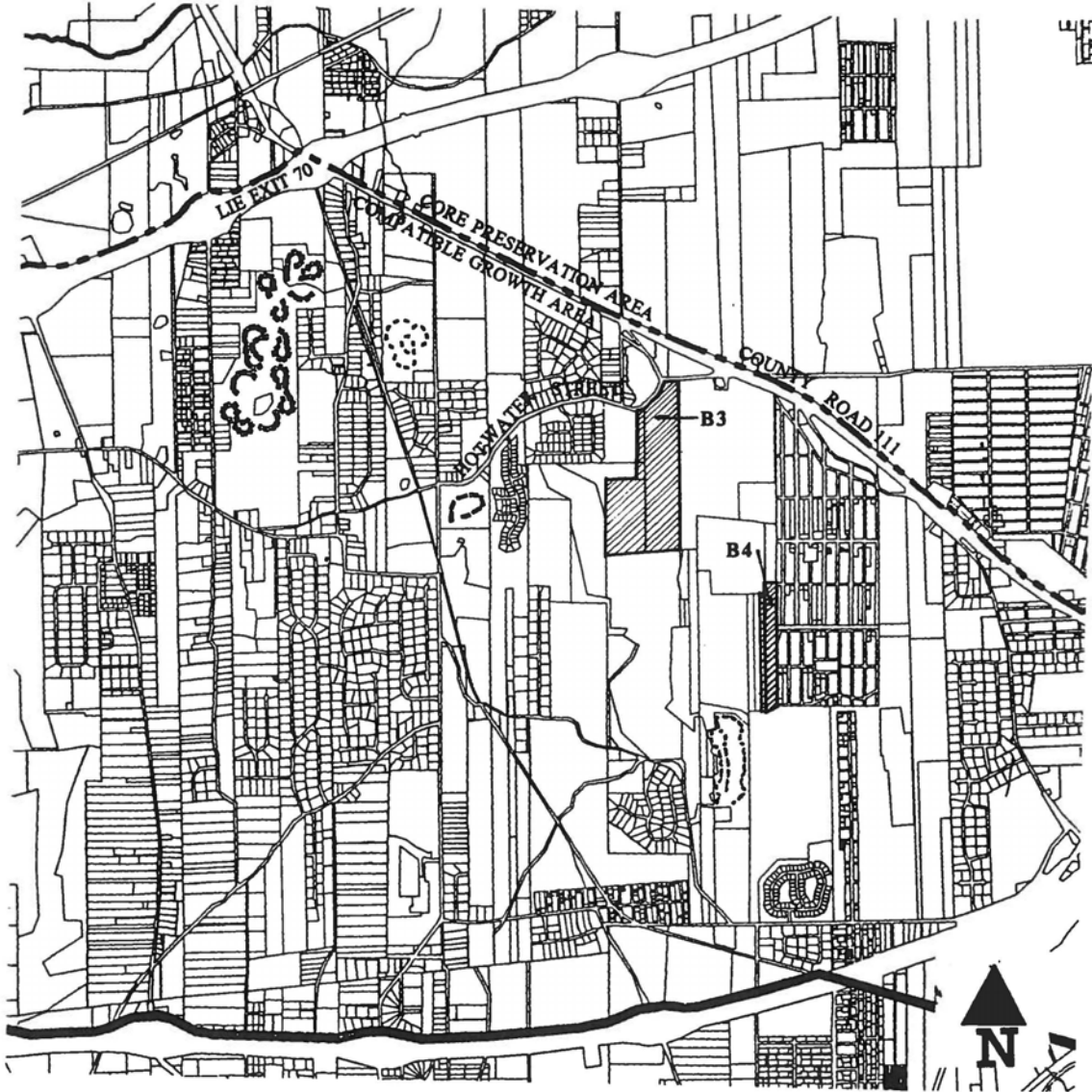


Figure 4-2: Map of Critical Resource Areas along the Carmans River



Chapter 4: Review Procedures and Jurisdiction - Page 11

Figure 4-3: Map of Critical Resource Areas south of County Route 111



**4.5.4.1.2 Southampton Town Critical Resource Areas**

There are ten Critical Resource Areas within Southampton Town’s CGA, identified in Figure 4-2, totaling approximately 1,585 acres.

<b>Figure 4-4: Critical Resource Areas in the Southampton Town CGA</b>		
<b>Name and Description</b>	<b>Tax Map Number(s) and Approximate Size</b>	<b>Feature(s)</b>
Flanders Ponds Southwest corner of CR 105 and NYS Rt 24 <i>See S1.</i>	0900-142-01-1.42, 53, 54.3  Approx. <del>90</del> 86.3 acres	<del>Extensive surface waters.</del> <u>Extensive freshwater wetlands, adjacency to Core Area, large block of preserved lands, rare fauna and flora, critical Peconic Bay watershed lands.</u>
Pleasure Drive West Flanders South of NYS Rt 24, west of Pleasure Drive. <i>See S2.</i>	<del>0900-166-04-01</del> <del>0900-166-04-20.1</del> 0900-167-03-09.1  Approx. <del>128</del> 86.2 acres.	Archaeological <del>and wetland</del> areas, <u>extensive freshwater wetlands, pristine pine and oak woods, rare fauna and flora, contiguous block of preserved lands.</u>
Red Creek Site 1: Wehrman Pond South side of Red Creek Rd, opposite Red Creek Pond. <i>See S3.</i>	<del>0900-151-01-06</del> , 10.2 <u>900 - 151 - 1 - 6.1 and 10.5</u> <u>p/o 900 - 151 - 1 - 10.3 and 10.4</u> <u>900 - 151 - 1 - 6.2</u>  Approx. <del>19</del> 18.8 acres.	<b><u><i>This is also a voluntary Pine Barrens Credit Sending area.</i></u></b> Wehrman Pond and the adjacent uplands comprise an eastern mud turtle habitat.
Red Creek Site 2 North side of Old Squires Rd, west of Red Creek Road. <i>See S4.</i>	<del>0900-173-02-1.2</del> <u>900 - 151 - 4 - 1 through 7</u> <u>900 - 173 - 2 - 1.3 through 1.11</u>  Approx. <del>46</del> 45.8 acres.	Mixed deciduous forest complements existing open space on adjacent <u>Core</u> parcels.
Red Creek Site 3 West of Red Creek Road <i>See S5.</i>	0900-173-02-8. <del>1</del> 2, 8.3  Approx. <del>41</del> 40.9 acres.	Part of the corridor for the proposed Paumanok Path segment heading towards Squire Pond.

<p>Red Creek Site 4 North of NYS Rt 24 and South of Old Squires Road. <i>See S6.</i></p>	<p><del>0900-173-01-01</del> <del>0900-205-01-01</del></p> <p><u>900 - 205 - 1 - 1.1 through 1.3, 3</u> <u>900 - 173 - 1 - 1.1 through 1.3</u></p> <p>Approx. <del>79</del><u>77.2</u> acres.</p>	<p>Open space area complementing adjacent parkland.</p>
<p>Munn's Pond Vicinity Hampton Bays North side of Montauk Highway, adjacent to east side of Munn's Pond parkland, west of Bellows Pond Road. <i>See S7.</i></p>	<p>0900-221-02-10</p> <p>Approx. <del>10</del><u>9.8</u> acres.</p>	<p>Open space area buffering the adjacent Munn's Pond site.</p>

<p>Henry's Hollow Region East Quogue Lies between Sunrise Highway and the railroad tracks <i>See S8.</i></p>	<p><del>0900-220-01-40-86</del>  <del>0900-220-01-p/o 87, 88.1, 92</del>  <del>0900-220-01-p/o 98.1, 99.24</del>  <del>0900-220-01-99.1-99.22</del>  <del>0900-220-03-1-82</del>  <del>0900-220-04-1-7</del>  <del>0900-251-01-68</del>  <del>0900-251-01-p/o 90, 91.1, 92</del>  <del>0900-251-01-98</del>  <del>0900-289-02-1-38</del></p> <p><u>900 - 220 - 1 - 103</u>  <u>p/o 900 - 220 - 1 - 112</u>  <u>900 - 220 - 1 - 53, 56 through</u>  <u>87</u>  <u>900 - 220 - 1 - 88.1, 88.2, 89</u>  <u>p/o 900 - 220 - 1 - 90</u>  <u>900 - 220 - 1 - 98.10 through</u>  <u>98.16, and 98.2 through 98.9</u>  <u>900 - 220 - 1 - 99.1</u>  <u>900 - 220 - 1 - 99.10 through</u>  <u>99.14</u>  <u>p/o 900 - 220 - 1 - 99.15</u>  <u>900 - 220 - 1 - 99.16 through</u>  <u>99.18</u>  <u>900 - 220 - 1 - 99.2</u>  <u>900 - 220 - 1 - 99.20</u>  <u>p/o 900 - 220 - 1 - 99.21</u>  <u>p/o 900 - 220 - 1 - 99.23</u>  <u>p/o 900 - 220 - 1 - 99.24</u>  <u>900 - 220 - 1 - 99.3 through</u>  <u>99.9</u>  <u>900 - 251 - 1 - 10 through 35</u>  <u>900 - 251 - 1 - 36.1</u>  <u>900 - 251 - 1 - 37 through 49</u>  <u>900 - 251 - 1 - 4 through 9</u>  <u>900 - 251 - 1 - 50.1, 50.2</u>  <u>900 - 251 - 1 - 51 through 69</u>  <u>900 - 251 - 1 - 90</u>  <u>p/o 900 - 251 - 1 - 91.1</u></p>	<p>Buck moth habitat generally north of 100 foot contour.</p>
--	---	---

	<p><u>900 - 251 - 1 - 92.1 through 92.8,</u>  <u>900 - 251 - 1 - 96, 98</u>  <u>900 - 251 - 3 - 1 through 83</u>  <u>900 - 251 - 4 - 1 through 7</u>  <u>900 - 251 - 5 - 1 through 43</u>  <u>900 - 289 - 2 - 1 through 5</u>  <u>900 - 289 - 2 - 19 through 39</u>  <p cga)<="" o="" p="" part="" refers="" to="" within=""> <p>Approx. <u>985-539.6</u> acres.</p> </p></p>	
<p>Dwarf Pines  Gabreski Airport  Westhampton  Contains the  northwesternmost  corner of Gabreski  Airport.  See S9.</p>	<p><del>0900-312-01-p/o 01</del>  p/o <u>900 - 312 - 1 - 4.2</u></p> <p>Approx. <u>34-23.96</u> acres.</p>	<p>Dwarf pine plains.</p>

<p>Upland Forest Westhampton East of Speonk- Riverhead Rd and 5th Ave., north of Montauk Highway. <i>See S10.</i></p>	<p><del>0900-276-03-p/o 01, 02, 5.1</del> <del>0900-305-01-6,7</del> <del>0900-329-01-01, 1.2, 3, 3.1,</del> <del>4, 5, 6, 7, 8.1</del> <del>0900-329-01-p/o 9, 10</del> <del>0900-330-01-02, 4.1</del></p> <p><u>900 - 305 - 1 - 6, 7.1</u> <u>900 - 330 - 1 - 3.1, 4.1</u> <u>900 - 329 - 1 - 1, 2.1, 3, 4, 5,</u> <u>6, 7, 8.1</u> <u>p/o 900 - 276 - 3 - 1</u> <u>p/o 900 - 276 - 3 - 2</u> <u>p/o 900 - 276 - 3 - 5.2</u> <u>p/o 900 - 305 - 1 - 4</u> <u>p/o 900 - 305 - 1 - 5</u> <u>p/o 900 - 329 - 1 - 9</u> <u>p/o 900 - 329 - 1 - 10</u></p> <p>(p/o refers to that part located in CGA and not in a receiving area) Approx. <del>153</del><u>151.9</u> acres.</p>	<p>Open space on northerly portion of site complements adjacent open space.</p>
---	---	---

Figure 4-5: Critical Resource Areas in Riverside - Flanders area of Southampton Town

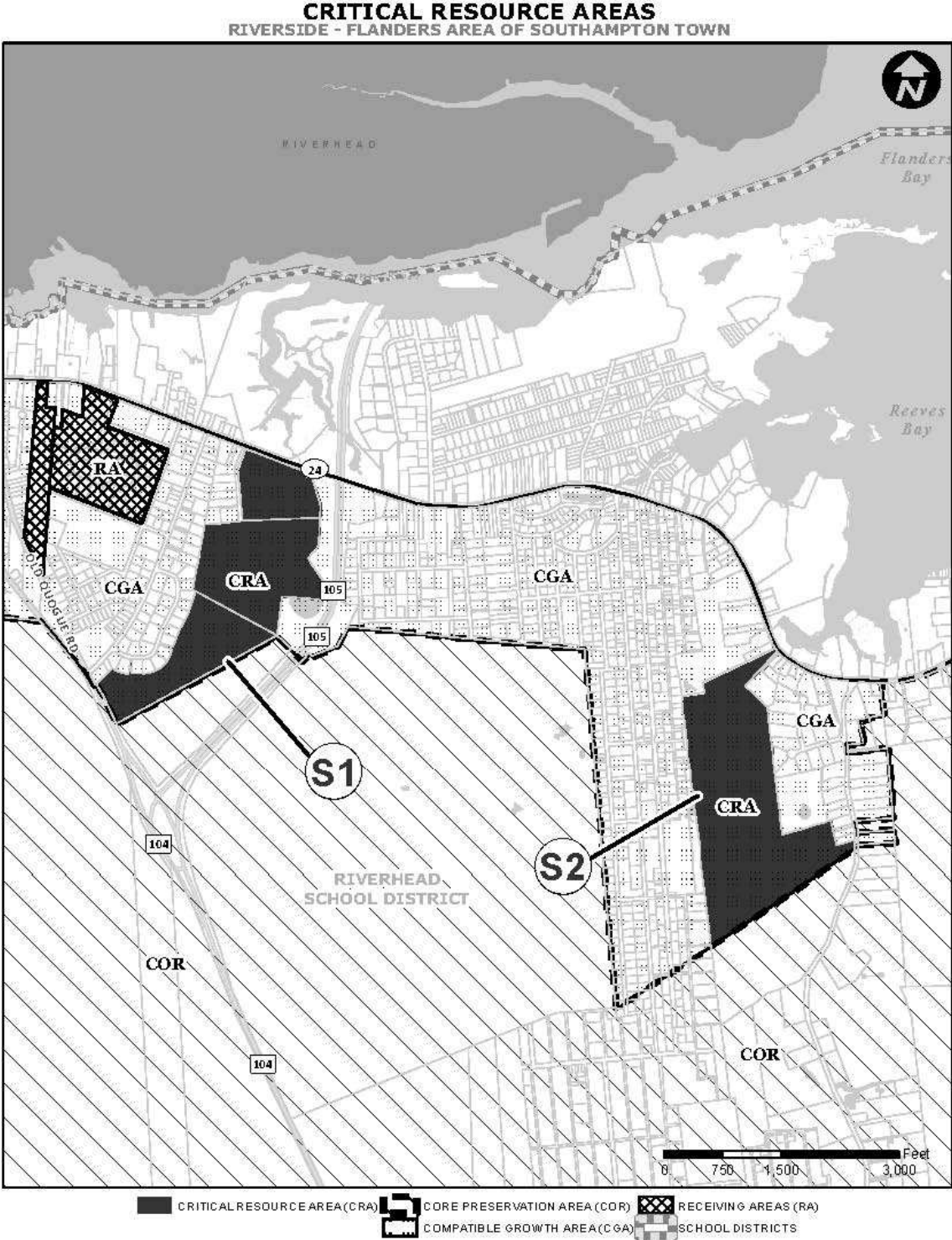




Figure 4-6: Critical Resource Areas in Red Creek area of Southampton Town

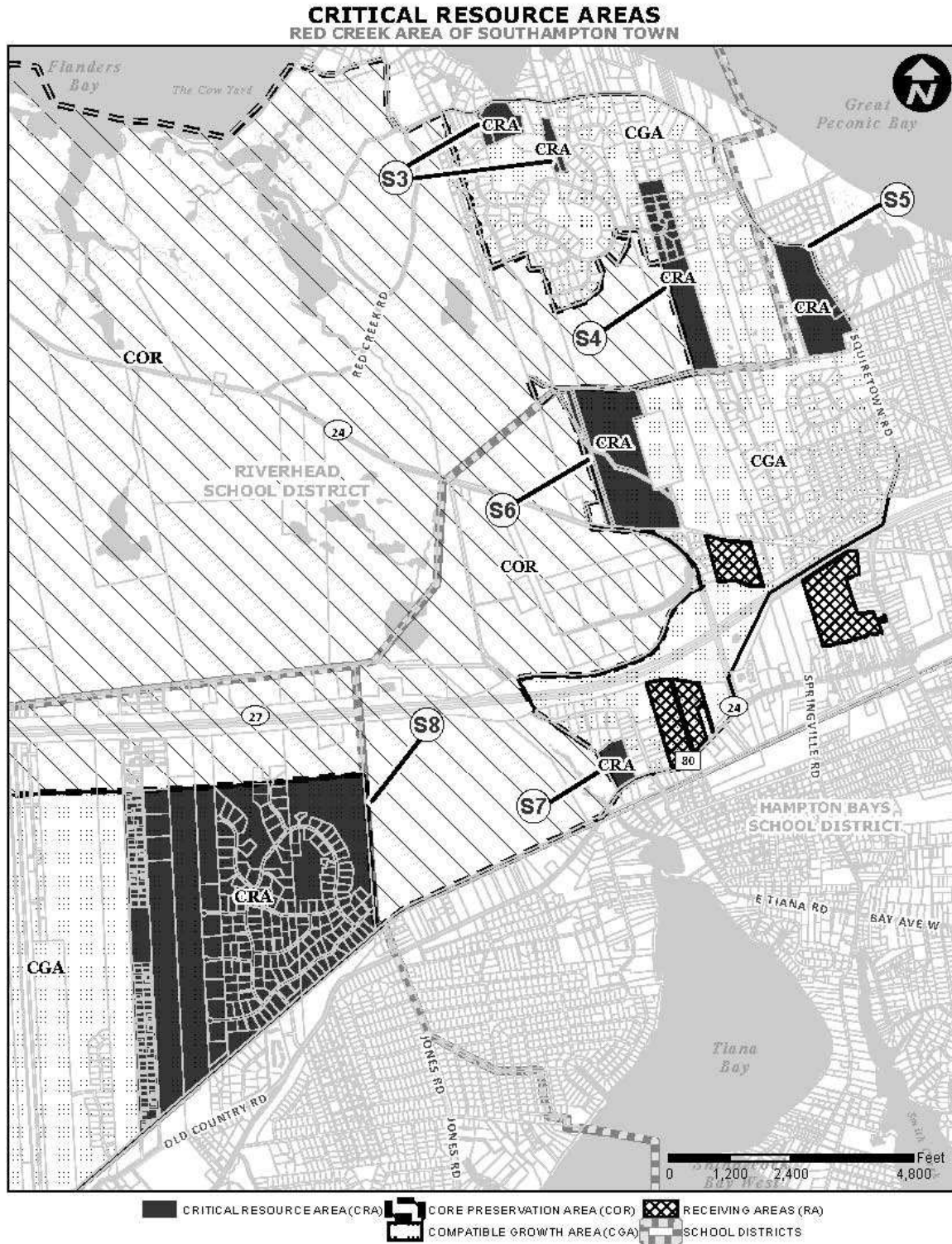
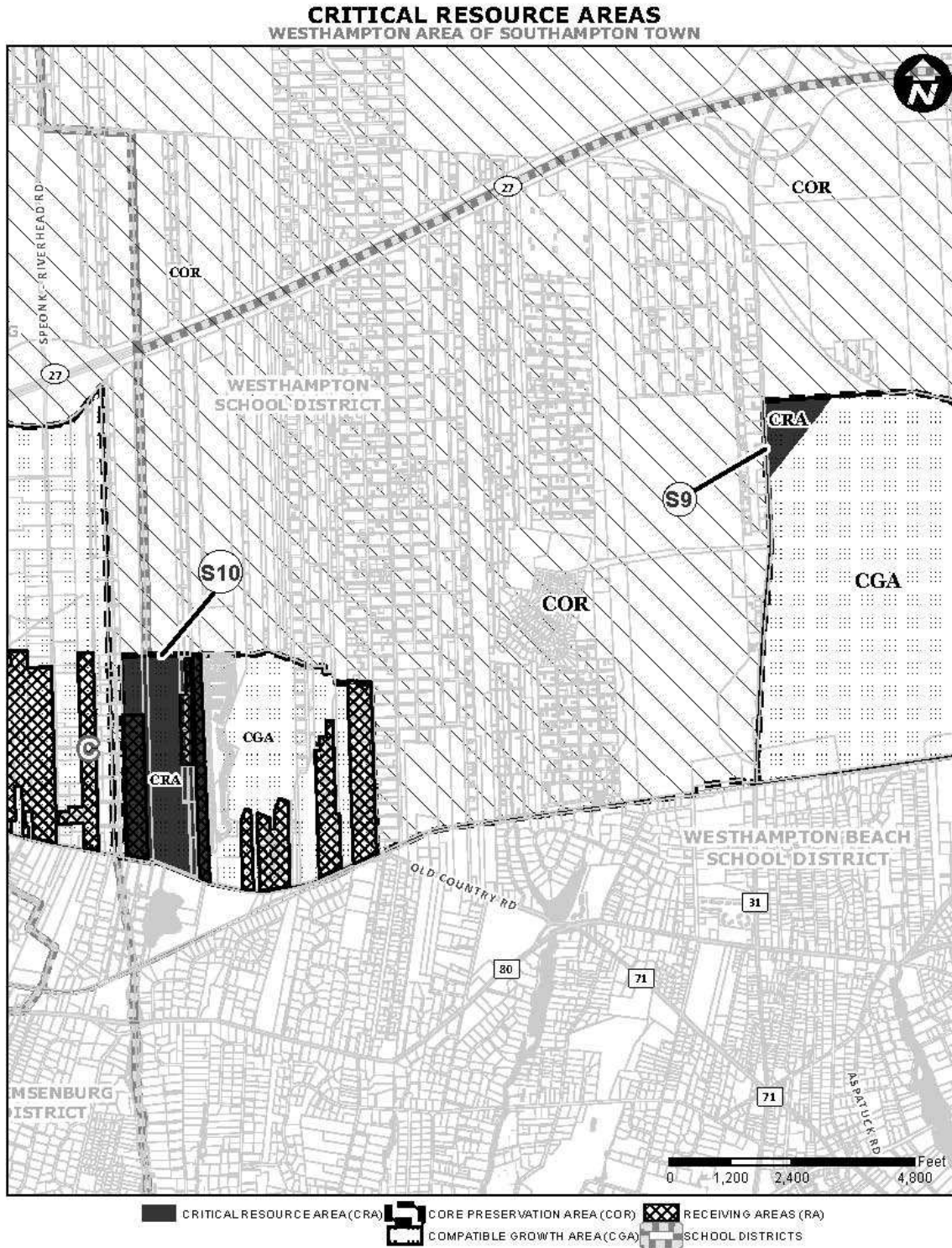


Figure 4-7: Critical Resource Areas in Westhampton area of Southampton Town



#### **4.5.4.2 CRA development: Review standards**

The Commission's review pursuant to this section shall be limited to compliance with the standards and guidelines set forth in Volume 1, Chapter 5 of this Plan and the protection for the critical resource feature(s) designated in the Plan. The Commission shall review conformance with guidelines set forth in Volume 1, Chapter 5 of this Plan.

#### **4.5.4.3 CRA development: Application and hearing**

A complete application shall be filed by the project sponsor as defined in 4.3.1. Within sixty (60) days of the application being deemed complete, a public hearing on the development proposal shall be held, unless the Commission by majority vote deems a hearing unnecessary, in accordance with the procedures specified in the Act. If a hearing is held, the Commission shall provide the project sponsor and any other person an opportunity to be heard as provided for, and in accordance with the procedures provided in the Act.

#### **4.5.4.4 CRA development: Decision on the application**

A decision on the application shall be made by the Commission within one hundred twenty (120) days of said application being deemed complete.

#### **4.5.4.5 CRA development: Default decisions**

In the event that the Commission fails to make a decision within one hundred twenty (120) days, the development proposal shall be deemed to be approved by the Commission.

#### **4.5.5 Developments of Regional Significance located within the Compatible Growth Area (“DRS development”)**

The Act sets forth the jurisdiction for the Commission's review of development within the Compatible Growth Area of the Central Pine Barrens. This includes the review of development that meets the threshold(s) constituting a Development of Regional Significance as enumerated in the Plan. The Act also authorizes the Commission, by majority vote, to waive strict compliance with this Plan upon finding that such waiver is necessary to alleviate a demonstrated hardship.

#### **4.5.5.1 DRS development: Definition of a Development of Regional Significance**

The following developments are defined as Developments of Regional Significance:

~~1. A commercial, industrial or office development project exceeding 300,000 square feet of gross floor area, or an addition to an existing commercial, industrial or office development~~

where the addition is 100,000 square feet or more and that addition causes the total square footage to exceed 300,000 square feet.

2. A multifamily residential development project consisting of three hundred (300) or more units.

3. A single family, detached residential development project consisting of two hundred (200) or more units.

4. A development project resulting in a traffic impact which would reduce service by two (2) levels below existing conditions or to a level of service of D or below.

Large scale developments that are likely to have regional impacts beyond the immediate project area in which they are located. The following developments are defined as Developments of Regional Significance, unless otherwise exempted under the following provisions:

1. Non Residential Floor area: Exceeds 300,000 square foot of gross floor area, or an addition to an existing commercial, industrial, office, educational institution or health care facility<sup>1</sup> development where the addition is 100,000 square feet or more and that addition causes the total square footage to exceed 300,000 square feet.

25. Residential: Proposes two hundred (200) residential development units - whether an addition to an existing development or a new development. This quantity shall include, and apply to, any mixture of residential dwelling units. This shall include, for example, but not be limited to, attached single family units or homes, detached single family units or homes, apartments, condominiums, cooperative units, and all residential units proposed as one part or component of a larger mixed use development proposal.

36. Mixed Use: Proposes a mixed use development of 400,000 square feet or greater.

47. Water Table Exposure: Development project which proposes exposing the subsurface groundwater table for uses other than public water supply, including a commercial, industrial institutional and governmental land use related purpose when the proposed surface water area meets or exceeds the three acre threshold pursuant to the requirements of New York State Environmental Conservation Law Article 23, Title 27 and its implementing regulations 6 NYCRR Parts 420-425 pertaining to Mined Land Reclamation. Lined ponds that do not expose subsurface groundwater table are exempt from this provision.

Development projects which meet all of the following three criteria are not Developments of Regional Significance:

---

<sup>1</sup>Educational institution (61) and health care facility (62) shall be any use as defined within the North American Industry Classification System - U.S. Department of Labor, or other similar use.

1. the development project is situated within a designated receiving area pursuant to this Plan, and
2. the development project results from a transfer of development rights from a sending area as defined in this Plan, and
3. the development project contains a minimum of fifteen percent (15%) of residential units, or a minimum of fifteen percent (15%) of commercial, industrial or office use square footage, which is a direct result of the transfer of development rights.

Additionally, the Calverton redevelopment project described in Chapter 9 is defined to not be a Development of Regional Significance.

#### **4.5.5.2 DRS development: Review standards**

The Commission's review pursuant to this section shall be limited to compliance with the standards and guidelines set forth in Volume 1, Chapter 5 of this Plan. The Commission shall review conformance with guidelines set forth in Volume 1, Chapter 5 of this Plan.

#### **4.5.5.3 DRS development: Application and hearing**

A complete application shall be filed by the project sponsor as defined in 4.3.1. Within sixty (60) days of the application being deemed complete, a public hearing on the development proposal shall be held unless the Commission by majority vote deems a hearing unnecessary, in accordance with the procedures provided in the act. If a hearing is held, the Commission shall provide the project sponsor and any other person an opportunity to be heard as provided for, and in accordance with the procedures provided in the Act.

#### **4.5.5.4 DRS development: Decision on the application**

A decision on the application shall be made by the Commission within one hundred twenty (120) days of said application being deemed complete.

#### **4.5.5.5 DRS development: Default decisions**

In the event that the Commission fails to make a decision within one hundred twenty (120) days, the development proposal shall be deemed to be approved by the Commission.

#### **4.5.6 Adoption of sense resolutions by the Commission for development projects *(amended 5/16/12)***

With respect to a development project undergoing review pursuant to the State Environmental Quality Review Act (SEQRA) by another government agency and which is also a pending application being processed and reviewed by the Commission, the Commission may elect to

adopt a sense resolution expressing its review and evaluation to date of such project and forward the same to those other agencies. The primary purpose of such a sense resolution shall be to facilitate the completion of the other agencies' SEQRA review and thereby enable the Commission to make a final decision on such a development project.

## 5. Standards and Guidelines for Land Use

### 5.1 Central Pine Barrens overall area

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

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

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

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

~~Present land uses~~ Pre-existing structures or uses (as defined in Chapter 4 of this Plan) that comply with existing laws, including legal non-conforming uses, may be continued in accordance with their current approved use(s)

Pursuant to Section 57-0123(3)(a) of the Act, "...no application for development within the Central Pine Barrens area shall be approved by any municipality or county or agency thereof or the commission, and no state approval, certificate, license, consent, permit, or financial assistance for the construction of any structure or the disturbance of any land within such area shall be granted, unless such approval or grant conforms to the provisions of such land use plan; provided, however, that the commission by majority vote is hereby authorized to waive strict compliance with such plan or with any element or standard contained therein, for an application for development of any person, upon finding that such waiver is necessary to alleviate hardship for proposed development..."

### 5.2 Core Preservation Area

The Core Preservation Area is to be preserved by a strategy of government land acquisition, the transfer of development rights, conservation easements, gifts, land swaps, and donations.

Development in the Core Preservation Area shall be prohibited or redirected, and hardship exemptions granted by this Commission as provided for in the Act.

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

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

### **5.3 Compatible Growth Area**

#### **5.3.1 Applicability and other policies**

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

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

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

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

Agriculture or horticulture in the Compatible Growth Area is encouraged to comply with best management practices. Best management practices are, for purposes of this Plan, the same practices stated in the document entitled *Agricultural Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State*, prepared by the New York State Nonpoint Source Management Practices Task Force, New York State Department of Environmental Conservation, 2007 ~~the most recent version of *Controlling Agricultural Nonpoint Source Water Pollution in New York State* (Bureau of Technical Services~~



and Research, Division of Water, New York State Department of Environmental Conservation, 1991 and as later amended).

Projects proposed in the Compatible Growth Area must conform to all other involved agency jurisdictions and permit requirements in effect on the project site. The permittee is responsible for obtaining any other permits and approvals.

### **5.3.2 State Environmental Quality Review Act (SEQRA)**

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

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

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

### **5.3.3 Intent and Compatible Growth Area standards** *(amended 5/16/12)*

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

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

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

#### **5.3.3.1 Sanitary waste, nitrate-nitrogen and other chemicals of concern**

Nitrate-nitrogen, a contaminant that emanates from numerous types of land uses, is a recognized indicator of groundwater quality. The Suffolk County Department of Health Services abides by the New York State nitrate-nitrogen standard for drinking water. In addition to the specific standards for nitrate-nitrogen, other contaminants of concern may be relevant in specific applications or in specific areas. This is particularly true for organic contaminants of anthropogenic origin.

## *Standards*

### **5.3.3.1.1 Suffolk County Sanitary Code Article 6 compliance**

All development proposals subject to Article 6 of the Suffolk County Sanitary Code (“Realty Subdivisions, Developments and Other Construction Projects”) shall meet all applicable requirements of the Suffolk County Department of Health Services. Development Projects which require variances from the provisions of Article 6 shall meet all requirements of the Suffolk County Department of Health Service's Board of Review in order to be deemed to have met the requirements of this standard. Commission approval shall require submission of a final official copy of the SCDHS permit.

### **5.3.3.1.2 Sewage treatment plant discharge**

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

### **5.3.3.1.3 Suffolk County Sanitary Code Articles 7 and 12 compliance**

All development projects must comply with the provisions of Articles 7 (“Water Pollution Control”) and 12 (“Toxic and Hazardous Materials Storage and Handling Controls”) of the Suffolk County Sanitary Code, including any provisions for variances or waivers if needed, and all applicable state laws and regulations in order to ensure that all necessary water resource and wastewater management infrastructure shall be in place prior to, or as part of, the commencement of construction. Commission approval shall require submission of a final official copy of the SCDHS permit.

### **5.3.3.1.4 Commercial and industrial compliance with the Suffolk County Sanitary Code**

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

### *Guideline*

5.3.3.1.3

5.3.3.1.5

#### **Nitrate-nitrogen goal**

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

5.3.3.2

#### **~~Other chemical contaminants of concern~~ Reserved**

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

### *Standard*

~~5.3.3.2.1~~

#### ~~**Suffolk County Sanitary Code Articles 7 and 12 compliance**~~

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

#### **5.3.3.3 Wellhead and groundwater protection**

The New York State Department of Health requires minimum separation distances for public water supply wells from contaminant sources pursuant to Appendix 5D of 10 NYCRR Part 5, Subpart 5-1 Public Water Supply Systems in order to protect these public water supplies from contamination. ~~advocates the exclusion of potentially contaminating activities from an area extending for 200 feet in all directions from a well site.~~ Although this may have been considered adequate to prevent the rapid drawdown of bacterial contamination or its entry into groundwater through poorly constructed wells, it does not necessarily ensure an adequate level of protection against the suite of organic and inorganic pollutants that may threaten community water supplies.

### *Standard*

5.3.3.3.1

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

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

### Guideline

#### 5.3.3.3.2 **Private well protection**

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

#### 5.3.3.4 **Wetlands, and surface waters and stormwater runoff**

Freshwater wetlands that exist within the Central Pine Barrens are considered to be an important natural resource, providing flood and erosion control, the filtering of contaminants and sediments from stormwater runoff, and habitat for plants and wildlife, including those species which are designated as rare, endangered, threatened or special concern. Furthermore, such wetlands may also constitute rare ecological community types themselves, such as coastal plain pond shores which in New York State are found only on Long Island

Tidal wetlands existing within the marine environment bordering portions of the Central Pine Barrens are equally valuable natural resources. These wetlands support the reproduction of finfish and shellfish, provide habitat for waterfowl and other species which are designated as rare, endangered, threatened or special concern, and contribute a scenic quality that supports recreational economies.

Surface waters, including freshwater ponds, lakes, streams, rivers, and creeks, occur throughout the Central Pine Barrens. These are considered to be resources of significant value in economic, aesthetic and ecological terms. Their protection is judged to be vital to the dynamics of the pine barrens.

The New York State Department of Environmental Conservation and local municipalities, including the Towns of Brookhaven, Riverhead and Southampton, have the authority to regulate various activities occurring within, adjacent to and in proximity to wetlands and surface waters. In their regulatory processes both the New York State Department of Environmental Conservation and local municipalities have established upland boundaries bordering the landward side of wetlands within which they regulate activities. These upland boundaries, known variously as adjacent areas, jurisdictional areas or regulated areas, have a prescribed numerical width measured as extending a certain distance away from the landward boundary of the wetland. Within these upland boundaries, the New York State Department of Environmental Conservation and local municipalities also require and impose buffer zones of a certain width adjacent to the landward boundary of a wetland and often comprised of existing natural vegetation, which are to be maintained as such in order to ensure permanent protection of the wetland and its functions.

In addition, the Commission has the authority, through its Comprehensive Land Use Plan, to

ensure the continuation of Pine Barrens environments existing within the Compatible Growth Area, such as wetlands, through the protection and preservation of ecological functions, and hydrological functions, including the quality of surface and groundwaters.

Development of lands within the pine barrens inevitably results in an increase of runoff water following precipitation. Runoff water originating from the roofs of buildings, from driveways and from parking lots is usually discharged directly to subsurface dry wells situated on the building lot. However, the great volume of runoff water originating from paved streets and roads is usually discharged by pipes into large open recharge basins or sumps, as also sometimes occurs in regard to parking lots. These basins may cover several acres and require the removal of considerable native vegetation to the detriment of the site's ecology and aesthetics.

### *Standards*

#### 5.3.3.4.1 **Nondisturbance buffers**

Development proposals for sites containing or abutting freshwater or tidal wetlands or surface waters ~~must~~ shall be separated by a nondisturbance buffer area which shall be ~~no less than~~ at least that required by the New York State Tidal Wetland, Freshwater Wetland, or Wild, Scenic and Recreational Rivers Act or local ordinance, whichever is greater. The Commission reserves the right to require a stricter and larger nondisturbance buffer as warranted in a specific instance, particularly in situations in which the wetland involved is representative of a rare ecological community type, such as a coastal plain pond shore, or provides habitat, including breeding habitat, for species which are designated as rare, endangered, threatened or special concern. Distances shall be measured horizontally from the wetland edge as mapped or determined by the New York State Department of Environmental Conservation, ~~field delineation or~~ and/or the local municipality, as applicable. Development Pprojects which require variances or exceptions from these state laws, local ordinances and associated regulations, shall meet all requirements imposed in a permit by the New York State Department of Environmental Conservation or a municipality in order to be deemed to have met the requirements of this standard. Commission approval, where applicable, shall require submission of a final official copy of all New York State Department of Environmental Conservation and municipal permits(s) and satisfaction of any conditions on such permit.

In those rare situations in which a wetland is not subject to the regulatory authority of either the New York State Department of Environmental Conservation or the local municipality and the wetland is located on a project site and a development project proposed for that project site requires a Hardship Waiver approval from the Commission, the Commission shall oversee the

delineation of the wetland boundary (for which the applicant shall have primary responsibility for initial field delineation), shall determine the adjacent area and shall require and determine the width of a nondisturbance buffer in accordance with the provisions of the applicable state statutes utilized by the New York State Department of Environmental Conservation, including Articles 24 and 25 of the Environmental Conservation Law; the applicable state regulations utilized by the New York State Department of Environmental Conservation, including 6 NYCRR Parts 661 and 663; and the applicable local municipal requirements, including the applicable code requirements of the Brookhaven Town Code, the Riverhead Town Code and the Southampton Town Code. In the aforementioned situation, the nondisturbance buffer required by the Commission shall be at least that which would have been required by the State or local ordinance, whichever is greater.

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

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

5.3.3.4.3

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

Development shall conform to the provisions of the New York State Wild, Scenic and Recreational Rivers Act, where applicable. Development Pprojects which require variances or exceptions under the New York State Wild, Scenic and Recreational Rivers Act shall meet all requirements imposed by the New York State Department of Environmental Conservation in order to be deemed to have met the requirements of this standard. Commission approval shall require submission of a final official copy of the NYSDEC permit.

5.3.3.4.3 **Stormwater recharge**

Development projects must shall provide that stormwater runoff originating from development on the property-project site is recharged on the project site unless the Commission by waiver of this standard approves the discharge of the stormwater to a documented surplus capacity in an off site drainage system.

5.3.3.4.4      **Reduction of Impervious Surfaces**

Development project sites requesting new or expanded development that have been previously cleared and established with impervious surfaces shall reduce previously cleared areas, including impervious surfaces, to comply with the applicable open space standard. Permanent waiver of required parking spaces, removal of unused pavement areas, and vegetative buffers may be counted towards meeting the open space standard. Temporary waivers of paving (e.g., landbanking) of parking shall not be counted toward meeting the open space standard.

5.3.3.4.5      **Natural recharge, drainage, and ponds**

Natural recharge areas and/or drainage system designs that cause minimal disturbance of native vegetation and preserve the native habitat shall be employed, where practical, when also approved by the municipal highway superintendent or public works department head, in lieu of recharge basins or ponds that would require removal of significant areas of native vegetation, and shall count towards satisfaction of Standard 5.3.3.6.2. Creation of ponds shall require approval from the Commission under this standard, but creation of ponds shall not count towards satisfaction of Standard 5.3.3.6.2.

*Guideline*

5.3.3.4.4      **Additional nondisturbance buffers**

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

~~5.3.3.4.6      **Soil erosion and stormwater runoff control during construction**~~

~~Those development projects for which a stormwater plan is required by another agency shall file a copy of such plans with the Commission when they are available.~~

**5.3.3.5 Stormwater runoff**

Development of lands within the pine barrens inevitably results in an increase of runoff water following precipitation. Runoff water originating from the roofs of buildings and from driveways is usually discharged directly to subsurface dry wells situated on the building lot. However, the great volume of runoff water originating from paved streets and roads is usually

discharged by pipes into large open recharge basins or sumps. These basins may cover several acres and require the removal of considerable native vegetation to the detriment of the site's ecology and aesthetics.

### *Standard*

#### 5.3.3.5.1 **Stormwater recharge**

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

### *Guidelines*

#### 5.3.3.5.2 **Natural recharge and drainage**

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

#### 5.3.3.5.3 **Ponds**

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

#### 5.3.3.5.4 **Natural topography in lieu of recharge basins**

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

#### 5.3.3.5.5 **Soil erosion and stormwater runoff control during construction**

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



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

Comprehensive, coordinated planning and design of development proposals within the pine barrens is essential to ensure maximum preservation of open space and habitat linkages. Development projects must shall be designed with full consideration of the existing development and known future plans for the adjacent parcels. Otherwise, inefficient road patterns may result requiring unnecessary clearing and lot layout that may hinder or entirely prevent the preservation of large, unbroken blocks of open space.

Conservation design principles must be utilized in creating development project plans. Conservation design is a method of site planning which emphasizes the preservation of natural, historic or other significant features of a development project site, including its natural landscape and ecology, while allowing other, more appropriate locations on the parcel to be developed. This approach first identifies areas of conservation value to be permanently protected as open space, such as natural vegetation, prime habitat for endangered species, wetlands, fields and meadows, buffer zones, significant topographical features and historic and cultural resources, while shifting development away from these environmentally-valuable areas onto areas of lesser conservation value on a project site. Conservation design ensures the most valuable natural features and functions of a project site are maintained and set aside as open space. At a minimum, it encourages building with contours instead of mass grading, using pervious surfaces such as grassways (instead of paved sidewalks), reducing lot size to preserve larger contiguous natural areas, and incorporates natural landscaping to reduce stormwater management problems. Conservation design also requires ongoing monitoring and permanent protection of areas which have been set aside through covenant, dedication or easement. Conservation design shall be required for all development projects as described in Standard 5.3.3.6.2, “Open space requirement, unfragmented open space and habitat.”

One means of complying with the required Conservation Design methodology is ~~T~~the use of the clustering technique within the Central Pine Barrens which preserves open space, preserves habitat, protects important resource areas, improves infrastructure efficiency and furthers the Act’s goals of compact, efficient and orderly development in the Central Pine Barrens. When this method of development is applied, development needs to be concentrated on a particular section of a project site by allowing individual lots to be smaller than the required minimum lot size prescribed by the zoning district in which the project site is located and the remaining portion of the project site is set aside as common open space. Accordingly, clustering or

reduced-density plans shall be required for single-family residential developments with the Central Pine Barrens.

Open space is defined as any essentially undeveloped and unimproved, publicly or privately-owned open area, which can be comprised of either land or water, that either remains in its natural state or is used for agriculture and is permanently preserved and will not be developed. Open space includes existing agricultural and forest land, grasslands, wildlife habitat, undeveloped coastal and estuarine lands, aquifer recharge areas, wetlands, undeveloped scenic lands, public parks and preserves as well as water bodies such as lakes and bays. The existing open quality, natural condition or current state of use of open spaces protects, conserves, maintains or enhances natural or scenic resources including waterways and riverine systems, soils, scenic vistas, wildlife preserves, nature sanctuaries and cultural resources or enhances the present or potential value of development which abuts or surrounds it. This open land can be characterized by natural scenic beauty or may also help maintain or enhance the quality and character of the lives of area residents or help preserve their common heritage. Open space is intended to be available, where applicable, for low-intensity recreational activities which have nominal environmental impact and have no effect on the environmental integrity of the open space, including hiking, hunting, nature study, bird watching and orienteering. In no case does open space mean active recreational facilities such as golf courses, amusement parks and ballfields. Additionally, proper management of these areas, including assignment of responsibility for such management, is essential in order to protect open spaces from illegal dumping, clearing, motor vehicle trespass and other abuses.

Buffer areas are defined, for the purposes of this section, as areas incorporated into a development project site design for purposes including, but not limited to, conservation area compliance, habitat preservation, open space protection, separation between wetlands and development, visual consideration, or mitigation of environmental impacts. These, too, must be properly managed and protected to prevent damage and deterioration.

Clearing is defined, for the purposes of this standard, as the removal, cutting or material alteration of any portion of the natural vegetation found on a development project site exclusive of any vegetation associated with active agricultural or horticultural activity or formalized landscape and turf areas. Excessive clearing of natural vegetation can result in severe soil erosion, excessive stormwater runoff, and the destruction or reduction of pine barrens plant and wildlife habitat, and shall be minimized on development project sites through the provisions of this section. Revegetation of a development project site, or a portion thereof, may be used as a

mitigative tool for the re-establishment of appropriate vegetation on a previously cleared area of a development project site. However, revegetation may not be used to meet the clearing standard.

Further, the *Long Island Comprehensive Waste Treatment Management Plan* (the "208 Study"; Long Island Regional Planning Board, Hauppauge, NY, (1978)) indicated that fertilizers are a significant source of nitrogen and phosphorous contamination to ground and surface waters. Due to their low fertility, soils common to the pine barrens (e.g., Carver, Haven, Plymouth and Riverhead) require both irrigation and fertilizer application for establishment and maintenance of turf and nonnative vegetation. As native pine barrens vegetation is replaced with turf through development, increased contamination and a general change in the ecosystem may be expected. Therefore, the use of non-native, fertilizer-dependent vegetation must be minimized in the Central Pine Barrens.

Over time, non-native species of vegetation have been transported from foreign locations and have become established throughout the United States. This includes the Central Pine Barrens where various types of alien plant species may be found. Unfortunately, some of these species of plants are invasive, i.e. non-native plants that have already or are likely to spread into an established vegetative system or community, develop a self-sustaining population, become dominant in or disruptive to the pre-existing vegetative systems or communities and may result in long-term adverse alteration of such systems or communities. Accordingly, provisions to actively monitor, support, and manage the health and preservation of natural ecological communities in the Compatible Growth Area that may be overtaken or supplanted by invasive species and to prevent and/or reduce the spread and extent of invasive species coverage in the Compatible Growth Area over time, especially proactively in coordination with other local and regional initiatives, are encouraged and supported.

It is recognized that the pine barrens ecosystem has a unique and powerful ability to recover from disturbance and invasion by non-native species returning itself to a diverse and intact local-genotype habitat either naturally or with active ecological oversight, maintenance and monitoring. This concept is known as "self-heal." Further, it is recognized that native plantings, regardless of how ecologically well designed, cannot compare to the habitat originally found on a project site in configuration or diversity. In fact, plants horticulturally introduced so successfully may suppress whatever seed-bank and diversity remaining on a project site that may otherwise emerge and such introduced plants may be counterproductive to the goals and objectives of the Act and the CLUP. Accordingly, the implementation of a self-heal approach is to be the first method undertaken in place of the reintroduction of horticulturally-generated native plants derived from off-site sources.

## *Standards*

### 5.3.3.6.1 **Vegetation clearance limits**

The clearance of natural vegetation shall be strictly limited. Site plans, surveys and subdivision maps shall delineate the existing naturally vegetated areas and calculate those portions of the site that are already cleared due to previous activities.

Areas of the site proposed to be cleared combined with previously cleared areas shall not exceed the percentages in Figure 5-1. These percentages shall be taken over the total site and shall include, but not be limited to, roads, building sites and drainage structures. The clearance standard that would be applied to a development project site if developed under the existing residential zoning category may be applied if the proposal involves multi-family units, attached housing, clustering or modified lot designs. Site plans, surveys and subdivision maps shall be delineated with a clearing limit line and calculations for clearing to demonstrate compliance with this standard.

To the extent that a portion of a development project site includes Core property, and for the purpose of calculating the clearance limits, the site shall be construed to be the combined Core and CGA portions. However, the Core portion may not be cleared except in accordance with Section 5.2 of the Plan.

5.3.3.6.1.1 Development project sites which consist of non contiguous parcels shall be treated as if the parcels were contiguous for purposes of determining compliance with Standard 5.3.3.6.1.

5.3.3.6.1.2 Development project sites which consist of parcel(s) that are split among two or more zoning categories shall have a total clearing allowance for the entire site which is the sum of the individual clearances for each separately zoned portion of the site.

5.3.3.6.1.3 Development project sites which are also Residential Overlay Districts and which include the redemption of Pine Barrens Credits shall apply Figure 5-1 based upon the actual resulting average lot size after the redemption of Credits, rather than the base zoning lot size. This actual average lot size shall be used to interpolate

between the two rows of Figure 5-1 which contain the immediately surrounding lot sizes for the actual one under consideration in order to determine the maximum site clearance percentage to be applied to the development project site, as long as the requirements of the Town Code and of Section 6.4.2.2.2 of this Plan are met.

5.3.3.6.1.4 Land cleared for purposes of conducting environmental restoration pursuant to ECL 57-0107(13)( c), immediately after revegetation, shall be considered “natural vegetation”, and shall not be considered “cleared” or “previously cleared” land in determining conformance with Standard 5.3.3.6.1.

5.3.3.6.1.5 Persons seeking relief from clearing requirements on individual lots must file a CGA hardship application

5.3.3.6.1.6 For a project site which is split between the Core Preservation Area and the Compatible Growth Area, and within which Pine Barrens Credits have been issued for the Core Preservation Area portion, only the Compatible Growth Area acreage shall be used to determine the amount of clearing allowed according to Figure 5-1 of Standard 5.3.3.6.1.

5.3.3.6.1.7 For those development project sites which propose development entirely and exclusively within the cleared portion of the development project site or was cleared either under a permit from the Commission or pursuant to a nondevelopment provision of the Act, and where no violation of the clearing standard or hardship exemption has occurred, then the “maximum site clearance” provisions of Figure 5-1 are not applicable.

**5.3.3.6.2 Open space standard requirement, unfragmented open space and habitat**

All development project sites shall provide an open space set aside area or areas equal to or greater than those minimum percentages of open space set forth in Figure 5-Applicants shall prioritize the use, for development, of any existing cleared area on a project site prior to clearing areas of natural vegetation. In no case shall the combined area of existing clearing and new clearing of existing natural vegetation exceed the applicable clearing requirement in Figure 5-1 nor shall the open space set-aside area be less than that required pursuant to the applicable open space set-aside in Figure 5-1. Site plans, surveys and subdivision

maps shall be delineated with open space boundary lines and calculations of open space area provided to demonstrate compliance with this standard.

In determining appropriate areas to designate as open space and how to configure open space areas, the principles of Conservation Design and related tenets, as described in the Commission-adopted document entitled “*Conservation Design Manual for Development Projects in the Central Pine Barrens*,” shall be utilized and applied to development projects. In determining which areas of a development project site to set aside as open space, the order of priority, from highest to lowest, shall be as follows:

- Portions of a development project site, including, but not limited to, wetlands; the habitats of endangered, threatened and special concern species; floodplains; archaeological sites and burial grounds and cemeteries, which are statutorily protected from development or disturbance by any federal, state, county, town, or other law or regulation.
- Portions of a development project site which may include, but shall not be limited to, natural areas which provide a connection between areas of open space, natural areas which abut existing open space, habitats of rare species such as certain forest interior-dependent birds, rare ecological communities such as grasslands, assemblages of rare plants, scenic vistas, steep slopes, farmland and significant topographic features such as kettleholes, drumlins and kames.
- When possible, after addressing the prior two priorities, subdivision and site design shall also support preservation of ~~natural vegetation~~ open spaces in large unbroken blocks that allow contiguous open spaces habitat to be established when adjacent parcels are developed. ~~Subdivision and site designs should also be configured in such a way so as to prioritize the preservation of native pine barrens vegetation to the maximum extent practicable~~

Existing forested and wooded areas, old fields and successional vegetation may be used to meet the open space standard and the set aside percentage among types of ecological communities. However, if active farmland is proposed for preservation as open space, as in an agricultural reserve, then active farmland may be used to satisfy the open space standard. ~~It is recognized that~~ The preservation of

nonnative but ecologically important habitats shall be permitted may be consistent with the intent and goals of the plan when such action would achieve one of the aforementioned priorities result in the creation of large contiguous natural open space areas and/or the protection of rare, threatened or endangered species or their habitat. Areas of bare soil, formalized landscape, and turf may not be counted towards satisfaction of the open space standard and set aside percentage without prior review and determination of the Commission, unless the entire project site is comprised solely of these areas or is active farmland proposed to be preserved, as in an agricultural reserve.

In determining the areas of a project site to be preserved as open space, preference shall be given to setting aside open space as separate parcels or blocks of land devoid of development but open space may be allowed within lots, particularly in the case of the establishment of agricultural reserves. The clustering technique, reduced density development design, transfer of development rights or other applicable design technique shall be required for development project design in order to achieve the requirements noted above. Municipalities are strongly urged to maximize the use of the clustering technique where its usage would enhance adjacent open space or provide contiguous open space connections with adjacent open space parcels.

A transfer of development rights within the CGA, which results in the preservation of a large block of unfragmented open space within the vicinity of the subject property being developed and which is included as part of the project site, can be considered by the approving authority in determining compliance with the requirements of this section.

On development project sites for which either new or expanded development has been requested and which are cleared or were cleared pursuant to a nondevelopment provision of the Act, and where no violation of the clearing standard has occurred, the area previously cleared shall be revegetated, with the first approach for revegetation to be used consisting of the “Self-Heal” technique (as defined herein and as described in detail in the Commission’s “*Conservation Design Manual for Development Projects in the Central Pine Barrens*”) in order to bring the site into compliance with the applicable open space standard. Active revegetation with natural vegetation, as prescribed in the Commission’s “*General Planting Specifications and List of Acceptable and Unacceptable Plants*,” shall only be undertaken when an applicant has made an adequate demonstration that the “Self-Heal” approach is not feasible or has not been successful and has

received approval to use active revegetation. However, such revegetation shall not be required for active farmland which is being preserved as such.

~~5.3.3.6.2.3~~ **Unfragmented open space and habitat**

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

5.3.3.6.3 **Fertilizer-dependent vegetation limit**

No more than 15% of an entire development project site shall be established in fertilizer-dependant vegetation including formalized turf areas. Generally, nonnative species require fertilization therefore, planting of such nonnative species shall be limited to the maximum extent practicable. Development designs shall ~~shall be in conformance with the Commission's "General Planting Specifications and List of Acceptable and Unacceptable Plants,"~~ which shall be adopted by resolution and periodically amended and updated by the Commission by a majority vote after consideration of other regulations and new scientific research findings applicable to Long Island native ecological communities. Landscaping and restoration plans shall strive to use only Long Island native genotypes, unless the plants are not available. The use of the nonnative plants in the Commission's "General Planting Specifications and List of Acceptable and Unacceptable Plants" Figure 5-2 is specifically not recommended prohibited in a development design.

5.3.3.6.4 **Native plantings**

Development designs shall ~~consider shall be~~ incorporate the planting suggestions of only those species listed as "recommended" contained in and shall be in conformance with the Commission's "General Planting Specifications and List of Acceptable and Unacceptable Plants." Landscaping and restoration plans shall strive to use only Long Island native genotypes, unless the plants are not available. Figure 5-2.



**Figure 5-2: Planting recommendations**

*(Native plants are more drought tolerant than nonnative species, are adapted to our local environment, maintain natural ecological diversity, perpetuate fast disappearing native genotypes, and comprise a form of habitat restoration.)*

Scientific name (In alphabetic order)	Common name
<b>Recommended native plants</b>	
<i>Andropogon gerardi</i> <i>Andropogon scoparius</i> <i>Betula lenta</i> <i>Betula populifolia</i> <i>Celtis occidentalis</i> <i>Dennstaedtia punctilobula</i> <i>Epigea repens</i> <i>Hamamelis virginia</i> <i>Ilex glabra</i> <i>Ilex opaca</i> <i>Myrica pensylvanica</i> <i>Parthenocissus quinquefolia</i> <i>Pinus rigida</i> <i>Populus tremuloides</i> <i>Prunus maritima</i> <i>Prunus serotina</i> <i>Pteridium aquilinum</i> <i>Quercus alba</i> <i>Quercus coccinea</i> <i>Quercus rubra</i> <i>Rosa virginiana</i> <i>Rubus allegheniensis</i> <i>Salix discolor</i> <i>Sassafras albidum</i> <i>Solidago species</i> <i>Spirea latifolia</i> <i>Vaccinium angustifolium</i> <i>Vaccinium corymbosum</i>	Big bluestem Little bluestem White Birch Grey birch Hackberry Hay scented fern Trailing arbutus Witch hazel Inkberry American holly Northern bayberry Virginia creeper Pitch pine Quaking aspen Beach plum Black cherry Bracken fern White oak Scarlet oak Red oak Virginia rose Northern blackberry Pussy willow Sassafras Goldenrod Spirea Lowbush blueberry Highbush blueberry
<i>Continued ...</i>	

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

#### 5.3.3.6.5 **Receiving entity and protection for open space areas**

Proposed open space protections shall consider use, maintenance and future management of any designated area.

When open space areas are proposed to be dedicated to another party, either a government land preservation and management entity or private not for profit conservation land management organization, applications must specify the entity to which dedicated open space will be transferred.

Protection of open space areas shall be guaranteed through one of the following three options (1) a transfer of the open space property title to a government land preservation and management entity or a not for profit conservation land management organization, (2) imposition of a permanent conservation easement on the open space area, with the easement grantee being either a government land preservation and management entity or a not for profit conservation land management organization in accordance with New York State Environmental Conservation Law Article 49, or (3) recording of a conservation easement by a private landowner and filed in the Office of the Suffolk County Clerk, with the easement grantee being either a government land preservation and management

entity or a not for profit conservation land management organization in accordance with New York State Environmental Conservation Law Article 49.

In the specific case of open space areas protected as a result of a Critical Resource Area development approval by the Commission, the Commission shall have enforcement authority for any conservation easement(s) on such areas.

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

Buffer areas shall be delineated on the site plan, subdivision map, project plan and/or survey. Covenants and/or conservation easements shall be imposed to protect these areas as deemed necessary.

5.3.3.6.7      **Invasive plant species mitigation**

Where a development application proposes to set aside an open space area of ten (10) acres or greater on a project site, the applicant shall identify the presence or absence of invasive plant species according to the inventory of unacceptable plants described in the Commission’s “*General Planting Specifications and List of Acceptable and Unacceptable Plants.*” The identification may include mapping of the areas of invasive plants, a description of the species of invasive plants found in the open space area and a description of the extent of invasive species. Development projects are prohibited from planting species in the Commission’s “*General Planting Specifications and List of Acceptable and Unacceptable Plants.*” and those listed in applicable State, County, and local regulations including, but not limited to, lists adopted by Suffolk County entitled “*Suffolk County's Do Not Sell/Transfer List of Invasive Species*” (2011) and New York State regulations pursuant to 6 NYCRR Part 575 entitled “*Prohibited and Regulated Invasive Species.*”

**Guideline**

5.3.3.6.7.1      **Invasive Species Mitigation**

When areas of invasive plants have been identified, project applicants may propose to remove and eradicate the invasive plants as part of any environmental mitigation offered pursuant to SEQRA, mitigation in a CGA Hardship Waiver application, Developments of Regional Significance, Critical Resource Area applications, assertions of jurisdiction, or any other municipal or State requirement or obligation. To minimize disturbance to open space and habitat, and in keeping with the conservation design approach for open space outlined in

the Plan to identify and develop appropriate locations on a project site while preserving natural features, protected species, habitats, and cultural resources, a total area of no more than two acres shall be identified and targeted for invasive species removal, unless specified, required or authorized otherwise. Identified invasive species shall be removed entirely by hand; no applications of herbicides or the use of machinery are permitted, unless the applicant makes a demonstration, with sufficient supporting documentation, of need and the removal is expressly authorized by the approving authority.

In the course of removing the aforesaid invasive vegetation, no disturbance may occur to existing native vegetation, native habitat or any local, state, or federally protected species within the two acre area or any other area of open space, unless otherwise permitted. Prior to removal of invasive plant material, a restoration plan must be prepared for the targeted area. As project site conditions vary due to prior disturbance, area of natural cover, location and proximity to other natural and developed landscapes, restoration techniques and opportunities for recovery are also varied and may be adapted accordingly. A range of one or more restoration methods may be applied and include, but are not limited to, the “self-heal” approach, active restoration with nursery stock, and/or transplantation activities. The site specific restoration plan shall be subject to review and approval. The restoration plan must contain specifications including, but not limited to, species, size, spacing, quantity, source of material, and other relevant information, as well as a schedule for planting in the first available planting season and a three year maintenance plan. A three year maintenance plan is required to replace any dead plantings and ensure recovery in the two acre or less area. Removal of invasives may occur within the three year maintenance period. No maintenance shall be required after three years, unless otherwise required by the approving authority. A written annual report in regard to the status of the success of the invasive plant removal and restoration shall be submitted to the approving authority during the three year maintenance period. Notification to the approving authority is required at the end of the three year maintenance period. The invasive species removal and restoration area once it has been successfully restored with native species must be protected, as well as the open space area of which it is a part, in accordance with Standard 5.3.3.6.6, “*Receiving entity and protection for open space areas.*”

### Figure 5-1: Clearance and Open Space Standards

This table shows total overall development project site clearance and requirement for open space including lots, roads, drainage and other improvements.

#### For all privately owned parcels:

<u>Zoning lot size as of June 28, 1995, with the exception that in the newly expanded Compatible Growth Area in the Carmans River Watershed created by the New York State Legislature's adoption on June 7, 2013 of an amendment to Environmental Conservation Law Article 57, Section 57-0107(10), the minimum lot size required by zoning shall be based on the zoning in effect on January 1, 2014.(*)</u>	<u>Maximum overall development project site clearance (**)</u>	<u>Minimum Open Space Requirement (**)</u>
10,000 square feet residential (1/4 acre)	90%	<u>10%</u>
15,000 square feet residential (1/3 acre)	70%	<u>30%</u>
20,000 square feet residential (1/2 acre)	60%	<u>40%</u>
30,000 square feet residential (2/3 acre)	58%	<u>42%</u>
40,000 square feet residential (1 acre)	53%	<u>47%</u>
60,000 square feet residential (1.5 acre)	46%	<u>54%</u>
80,000 square feet residential (2 acres)	35%	<u>65%</u>
120,000 square feet residential (3 acres)	30%	<u>70%</u>
<p style="text-align: center;">160,000 through 200,000+ square feet residential (4 - 5+ acres)</p> <p style="text-align: center;"><del>Clearance Areas and Open Space on lots in this category shall not include the clearance necessary for the construction of driveways and septic systems, except that, in no case shall the total clearance in this category exceed 25%.</del></p> <p style="text-align: center;"><u>The total amount of disturbance of natural vegetation shall not exceed the clearance percentage, except on flagpole lots where the area of the pole shall be exempt from the total lot area and the total amount of clearing permitted.</u></p>	<p style="text-align: center;"><del>25%</del></p> <p style="text-align: center;"><u>25%</u></p> <p style="text-align: center;"><del>Clearance limitations on lots in this category shall not include the clearance necessary for the construction of driveways and septic systems. In no case shall the total clearance in this category exceed 25%.</del></p>	<u>75%</u>

Other defined residential zoning lot size	Interpolate from entries above.	Interpolate from entries above.
<u>Commercial, Industrial and Other or Mixed Use</u> <u>All other zoning categories, including those categories without defined zoning lot sizes and parcels owned by the State or a public corporation, except for publicly-owned lands dedicated to park purposes, open space or nature preserve or acquired with funds for open space preservation or parkland purposes.</u>	65 <u>60</u> %	40%
<p style="text-align: center;"><i>Notes:</i></p> <p>(*) These entries are the minimum lot sizes required by zoning <u>as of June 28, 1995 or the current zoning, whichever is more protective of the environment by minimizing clearance or maximizing open space, not the size of the subject parcels, with the exception that in the newly expanded Compatible Growth Area in the Carmans River Watershed created by the New York State Legislature's adoption on June 7, 2013 of an amendment to Environmental Conservation Law Article 57, Section 57-0107(10), the minimum lot size required by zoning shall be based on the zoning in effect on January 1, 2014.</u></p> <p>(**) In calculating the percentage of land cleared <u>or and the percentage of open space to be retained,</u> the preserved areas in a development should preferably be existing native vegetation. These are maximum clearance and <u>minimum</u> open space standards, and more restrictive standards may be imposed during the review by the <u>Commission, involved agency, or local municipality</u> due to consideration of other standards, especially those addressing preservation of rare or endangered species, or unique flora or vegetation.</p>		

**5.3.3.7 Species and communities of special concern Protection and conservation of species and communities**

The pine barrens ecosystem hosts several species of rare, endangered or threatened animals and plants, as well as species of special concern. The State of New York has identified such species and has enacted laws to protect their number and habitat. The New York State Natural Heritage Program has also identified unique natural communities and habitats of special concern. Additionally, the pine barrens provides breeding, migratory stopover, and overwintering habitat for several dozen species of birds. These include various songbirds such as warblers, tanagers, cuckoos, kinglets, grosbeaks, thrushes, and orioles. This also includes certain other groups of birds including shorebirds, water birds, birds-of-prey, forest interior bird species and hummingbirds.

The U.S. Fish and Wildlife Service estimates that bird strikes with buildings, windows, and other structures account for up to several hundred million bird deaths per year. Many collisions are preventable with appropriate building designs, such as those described in the city of Toronto, Canada’s “Bird Friendly Development Guidelines” and the New York City Audubon Society’s “Bird-safe Building Guidelines”.

#### 5.3.3.7.1 **Special species and ecological communities**

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

##### **Guideline**

#### 5.3.3.7.2 **Bird conservation and protection**

All development or portions thereof, including, but not limited to, commercial, industrial, institutional, public, mixed use and tall structures (see definition in Chapter 4), but excluding construction of separate single family homes, shall incorporate structural design and site planning elements which reduce, minimize, mitigate or eliminate to the greatest extent feasible, impacts to birds, both migratory and non migratory. This shall be accomplished through structural and site design elements which shall include, but not be limited to:

- reduction of continuous window surface area;
- external and internal patterning of glass;
- type and location of landscaping with respect to the building proper;
- reduction of reflections, glazing and reflective surfaces that reflect natural surroundings;
- use of angled glass surfaces;
- incorporation of reflection reducing awnings, and other building design and facade elements that eliminate habitat reflections;
- full cutoff lighting that directs all light downward and eliminates spill light and direct upward light; and
- design of tall structures that do not incorporate support wires, lighting patterns, or colors that endanger migration and flight.

#### **5.3.3.8 Soils**

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

### *Guidelines*

#### **5.3.3.8.1 Clearing envelopes**

Clearing envelopes should be placed upon lots within a subdivision so as to maximize the placement of those envelopes on slopes less than ten percent (10%).

#### **5.3.3.8.2 Stabilization and erosion control**

Construction of homes, roadways and private driveways on slopes greater than ten percent (10%) may be approved if technical review shows that sufficient care has been taken in the design of stabilization measures, erosion control practices and structures so as to mitigate negative environmental impacts.

#### **5.3.3.8.3 Slope analyses**

Project review is facilitated if submissions contain a slope analysis showing slopes in the ranges 0-10%, 11-15% and 15% and greater. In areas with steep slopes, slope analysis maps should be required. This can be satisfied with cross hatching or shading on the site plan for the appropriate areas.

#### **5.3.3.8.4 Erosion and sediment control plans**

Erosion and sediment control plans should be required in areas of fifteen percent (15%) or greater slopes.

#### **5.3.3.8.5 Placement of roadways**

Roads and driveways should be designed to minimize the traversing of slopes greater than ten percent (10%) and to minimize cuts and fills.

#### **5.3.3.8.6 Retaining walls and control structures**

Details of retaining walls and erosion control structures should be provided for roads and driveways which traverse slopes greater than ten percent (10%).

#### **~~5.3.3.9 Coordinated design for open space management.~~**

~~Comprehensive, coordinated planning and design of development proposals within the pine barrens is essential to ensure maximum preservation of open space and habitat linkages.~~



Developments should not be designed without adequate consideration of the existing development and known future plans for the adjacent parcels. Otherwise, inefficient road patterns may require unnecessary clearing and lot layout that may hinder or prevent the preservation of large, unbroken blocks of open space.

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

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

#### *Standard*

##### **5.3.3.9.1 Receiving entity for open space dedications**

Applications must specify the entity to which dedicated open space will be transferred.

#### *Guidelines*

##### **5.3.3.9.2 Clustering**

Municipalities are strongly urged to maximize the use of the clustering technique where its usage would enhance adjacent open space or provide contiguous open space connections with adjacent open space parcels.

##### **5.3.3.9.3 Protection of dedicated open space**

Proposed open space should be protected with covenants, conservation easements or dedications that specify proper restrictions on its use and contingencies for its future management.

#### **5.3.3.9 Dark sky compliance.**

It is the intent of the Commission to encourage lighting fixtures, practices and systems which will minimize light pollution and glare, conserve energy and resources, provide essential site security, eliminate adverse effects upon nocturnal light sensitive species, and avoid light trespass onto adjoining and nearby properties.

Light pollution is defined, for the purposes of this section, as any adverse effect of man-made light, including, but not limited to, discomfort to the eye, or any man-made light that diminishes the ability to view the night sky, trespasses upon other properties, or disrupts wildlife.

### *Standard*

#### 5.3.3.9.1 Light pollution prevention

The candlepower distribution from all lighting fixtures and installations shall be cut off at all angles beyond those required to restrict direct illumination to the specific area or surface being illuminated. Development shall utilize full cutoff lighting that directs all light downward and eliminates spill light and direct upward light. All fixtures shall be noted on the proposed site plan as dark-sky compliant fixtures. All existing exterior fixtures on a development project site shall be retrofitted accordingly. This standard applies only to projects which are not subject to local municipal review and approval.

#### 5.3.3.10 Agriculture and horticulture~~Reserved.~~

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

### *Guideline*

#### ~~5.3.3.10.1 Best management practices~~

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

#### **5.3.3.11 Scenic, historic and cultural resources**

The Long Island Pine Barrens Protection Act specifies that the Plan shall consider and protect unique scenic, cultural or historic features. Chapters 7 and 8 in Volume 2 of ~~the~~ Plan include an inventory of many of these resources, and separate inventories for these items exist in local, state, county, federal or private inventories.

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

guidelines in this section will promote the protection of these features in the Central Pine Barrens.

Federal, State, and local historic and cultural preservation programs along with the standards in this section promote the protection and preservation of the historic and cultural resources in the Central Pine Barrens which serve as critical components to the region's heritage, economy and tourism. Local historic districts play an important role in preserving distinctive historic neighborhoods and assemblages of historic structures located in the Central Pine Barrens.

In order to minimize adverse visual effects of tall structures, as defined in Chapter 4, Section 4.3.11, careful siting and design standards shall be applied to development projects involving tall structures that are proposed by public corporations identified in New York State Construction Law and any other development projects which are not subject to local municipal review and approval. Potential damage to adjacent properties from the placement and construction of tall structures should be avoided through local structural standards and zoning setback requirements. This section also emphasizes the protection of existing viewsheds along scenic roads and for scenic areas as identified in Figure 5-2, and as further described in Volume II of this Plan, and the avoidance of the unnecessary proliferation of tall structures within the Central Pine Barrens. In addition, the standard for tall structures will promote the protection of community character, historic and cultural resources, and recreational resources from visual and aesthetic impacts.

### *Guidelines*

#### **5.3.3.11.1 Tall structures and scenic resources**

No development or portions thereof, which is proposed by public corporations or and any other development projects which are not subject to local municipal review and approval, shall meet or exceed the height definition for tall structures in Chapter 4, Section 4.3.11. Tall structures include, but are not limited to, communication and other types of towers, wind energy facilities, signs, buildings and other structures which meet or exceed the definition for tall structures in Chapter 4, Section 4.3.11. Proposed development or portions thereof which meet or exceed the height definition for a tall structure shall require a waiver of this standard from the Commission. This standard requires, in part, the adaptive use and reuse of existing tall structures (see definition in Chapter 4) rather than the construction and placement of new ones when and where feasible and appropriate. Applicants shall complete Part 1 of the State Environmental Quality Review Long Environmental Assessment form, as applicable, to evaluate potential impacts to scenic, historic, and cultural resources, and community character, open space, and recreation for any tall structure proposed. The Commission shall review this information, other land use plans, Volume II: Chapter 7 Cultural Resources: Historic and Archaeological and Chapter 8 Scenic Resources, the New York State Department of Environmental Conservation guidance document DEP-00-2

entitled “Assessing and Mitigating Visual Impacts” and any other technical material relevant to the evaluation of the development project being proposed.. This information shall be used by the Commission for determining the appropriateness of design elements including, but not limited to, placement, height and potential impacts, including but not limited to, visual and bird impacts, of any proposed tall structure, and may require mitigation measures as a condition of granting a waiver is granted.

5.3.3.11.2+ **Cultural resource consideration**

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

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

5.3.3.11.3z **Inclusion of cultural resources in applications**

Development proposals should note established recreation and educational trails and trail corridors; active recreation sites; scenic corridors, roads, vistas and viewpoints located in Critical Resource Areas and undisturbed portions of the roadsides of the Long Island Expressway, Sunrise Highway, County Road 111 and William Floyd Parkway; sites on the State or National Register of Historic Places,

and historic structures and landmarks recognized by municipal law or statute, or listed on the State or National Registers of Historic Places; and sensitive archaeological areas as identified by the New York State Historic Preservation Office or the New York State Museum within a five hundred (500) foot radius of the outside perimeter of the project site, including any project parcels which are physically separate from the bulk of the proposed development area.

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

5.3.3.11.43 **Protection of scenic and recreational resources**

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

5.3.3.11.54 **Roadside design and management**

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

## **Figure 5-2: Scenic Roads and Areas in the Central Pine Barrens<sup>1</sup>**

*(Standards and guidelines shall apply only to the portion of these areas  
and roadways located in the Compatible Growth Area*

### **Scenic Roads in the Central Pine Barrens Area**

- **Sunrise Highway (NYS 27) from CR 51 intersection east to NYS 24 intersection.**
- **Riverhead -Moriches Road (CR 51) and Center Drive from CR 111 north to Riverhead County Center.**
- **Riverhead –Moriches Road (CR 63) from CR 51 north toward Riverhead**
- **Riverhead-Westhampton Road (CR 31) and Riverhead-Quogue Road (CR 104) from Suffolk Airport north to Riverhead**
- **Flanders Road (NYS 24) from approximately Cross River Drive (CR 105) east to Jackson Avenue**
- **Yaphank hamlet and Yaphank-Middle Island Road (CR 21) from Lower Lake north to Cathedral and Prosser Pines**
- **William Floyd Parkway from northerly edge of Brookhaven Laboratory to Route 25A**
- **Rocky Point Road (CR 21) from approximately Whiskey Road north to northern edge of state preserve**
- **North Street and Mill Road through Manorville hamlet**
- **Schultz Road and Wading River-Manorville Road**

### **Scenic Areas in the Central Pine Barrens**

- **NYS Rocky Point Natural Resource Management Area**
- **Prosser Pines County Nature Preserve**
- **Southaven County Park and Carmans River**
- **Brookhaven State Park**
- **Peconic River and associated Coastal Plain Ponds from Middle Country Road (NYS 24) south to Schultz Road and east towards Connecticut Avenue**
- **Swan Pond County Parkland**
- **Manorville-Riverhead Hills from roughly the Long Island Expressway extending along an arc running southeast and east to CR 51**

- Riverhead Hills, an extension of the above “arc”, running from CR 51 east past Suffolk Community College, Speonk-Riverhead Road to CR 104
- Cranberry Bog County Nature Preserve located south of Riverhead County Center
- Sears Bellows/Maple Swamp/ Flanders Hills County parkland from Flanders Road (NYS 24) south to Sunrise Highway; from Pleasure Drive east to Bellows Pond Road
- South Flanders and Henry’s Hollow region
- Dwarf Pine Barrens
- Flanders and Hubbard County Parks, Southampton Town Red Creek Parkland
- Quogue Wildlife Refuge
- Peconic River from Connecticut Avenue east to Riverhead hamlet and Flanders Bay
- Paumanok Path (Pine Barrens Trail portion) from Rocky Point south, southeast, and east to Sears Bellows County Park, the Red Creek region, and outside the Central Pine Barrens towards Montauk Point
- Wildwood Lake south of Riverhead hamlet
- Artist Lake immediately south of Middle Country Road in Middle Island
- Lake Panamoka approximately one mile north of Middle Country Road, between Ridge and Calverton

A more complete description of each of the scenic resources listed is provided in the Central Pine Barrens Comprehensive Land Use Plan, Volume 2: Existing Conditions, Chapter 8 Scenic Resources, 6/28/1995, reprinted 8/96).

### **5.3.3.12 Commercial and industrial development**

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

#### *Standard*

#### **5.3.3.12.1 Commercial and industrial compliance with Suffolk County Sanitary Code**

All commercial and industrial development applications shall comply with the provisions of the Suffolk County Sanitary Code as applied by the Suffolk County Department of Health Services, and all other applicable federal, state or local laws. Projects which require variances from the provisions of the Suffolk County Sanitary Code shall meet all

~~requirements of the Department of Health Service's Board of Review in order to be deemed to have met the requirements of this standard.~~

**5.3.3.12 (Reserved)**



DRAFT  
Conservation Design and Open Space Management Manual for Development Projects in the  
Central Pine Barrens

March 18, 2015

**THIS PAGE INTENTIONALLY LEFT BLANK**

## TABLE OF CONTENTS

OVERVIEW .....	5
INTRODUCTION .....	7
PURPOSE AND NEED.....	7
PRESERVATION OF OPEN SPACE, OPEN SPACE CONFIGURATION & APPLICATION OF CONSERVATION DESIGN.....	8
CONSERVATION DESIGN METHODOLOGY .....	9
CONSERVATION DESIGN APPROACH .....	10
Cover Types .....	10
Legal Protection Measures .....	11
Self-Heal Restoration .....	11
EXAMPLES OF SITE LAYOUTS .....	13
Conservation Design Site Plan.....	13
Conservation Design Commercial/Industrial Site Plan.....	13
Conservation Design Residential Subdivision 1 .....	13
Conservation Design Residential Subdivision 2.....	13
Conservation Design Residential Subdivision 3 .....	13
Conservation Design Residential Subdivision 4.....	13
Conservation Design Residential Subdivision with Agricultural Reserve Lot.....	13
Conservation Design Residential Subdivision with Agricultural Reserve .....	14
Conservation Design Multi-family Development Project.....	14
Conservation Design Reduced Density Residential Subdivision with Conservation Easements .....	14
Conservation Design Mixed Use Development Project.....	14
Conventional Residential Subdivision with Fragmented Open Space.....	14
Conventional Site Plan with Fragmented Open Space.....	14
Residential Subdivision with Self-Heal Restoration Open Space.....	14
Self-Heal Restoration Site Plan.....	15
SELF-HEAL IMPLEMENTATION, SELF RESTORATION OR AUTO RESTORATION .....	17
REFERENCES .....	20

## **List of Appendices**

Appendix A: Examples of Site Layouts Demonstrating Conservation Design Opportunities and Self-Heal Restoration.....	A-1
Appendix B: Figure 5-1: Clearance and Open Space Standards .....	B-1
Appendix C: Commission General Planting Recommendations and List of Acceptable and Unacceptable Plants .....	C-1

## OVERVIEW

The Central Pine Barrens Commission prepared this Conservation Design and Open Space Management Manual as a guide for applicants, developers, and project reviewers to apply Conservation Design principles in the planning phase of a development project in the Compatible Growth Area of the Central Pine Barrens. A central goal of the Long Island Pine Barrens Protection Act (the “Act”), Article 57 of the New York State Environmental Conservation Law Act, is to “protect, preserve and enhance the functional integrity of the Pine Barrens ecosystem resources, including plant and animal populations and communities thereof.” (ECL Article 57, Section 57-0121(2)(a)). The Central Pine Barrens Comprehensive Land Use Plan (CLUP) was designed 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.” (ECL Article 57, Section 57-0121.2(e)). Conservation Design is a method to achieve the goals and objectives of the Act and the CLUP.

Implementation of Conservation Design principles results in habitat and species protection pursuant to existing regulations, the preservation of other significant features including the character of the region, and the continuation of unfragmented open space to support habitat linkages and contiguous open space in the landscape. Section 5.3.3.6 of the CLUP entitled, “Coordinated design for open space, habitat and soil protection,” contains the standard that requires the preservation of open space. Research and planning studies from regions similar to the Central Pine Barrens indicate habitat quantity and quality contribute to biodiversity and healthy environments that sustain plant and animal habitat, particularly avian wildlife such as forest interior bird species, among other ecological benefits. As a result of Conservation Design, emphasis is placed on the protection of natural resources and other features such as cultural resources (pursuant to existing regulations) open space is established in accordance with the CLUP, and developed land uses are located in an efficient and sustainable pattern on a project site. See Appendix A for examples of Conservation Design and Self-Heal Restoration.

In developing a project site, the primary goal is to identify and conserve attributes that require protection through existing regulations (e.g., freshwater wetlands, endangered species). The secondary goal is to preserve the total required amount of open space, as described in Appendix B which contains Figure 5-1 of the CLUP – a listing of the amount of clearing permitted and conversely the amount of open space area required in each zoning district in the Central Pine Barrens. The Conservation Design method supports the preservation of significant ecological resources and other features of a project site (e.g., natural, historic, scenic, agricultural resources) and discourages piecemeal and scattered development, pursuant to the Act. In no case are active uses such as ballfields or other recreational uses or facilities permitted to be developed in open space. Passive hiking trails may be permitted.

Proper management of open space is essential in order to protect open spaces from illegal dumping, clearing, trespass, and other abuses of the environment. Open space is protected

through legal mechanisms such as covenants or conservation easements, pursuant to the CLUP. Aside from habitat protection and other benefits, maintaining large unfragmented blocks of open space fosters stronger opportunities for public land stewardship and management.

Self-heal restoration is also covered in this Manual. As defined in Chapter 4 of the CLUP, Self-Heal, Self Restoration or Auto Restoration is a process in which revegetation of a previously-disturbed site, such as one on which natural vegetation has been removed or degraded and which may have areas of bare soil and disturbed soil horizons, is allowed to occur without importation of plant material, active planting, transplanting of vegetation obtained from off-site or reseeding of vegetation. Instead, existing live seed banks, rhizomes, roots, etc., which remain beneath or adjacent to the disturbed area, are permitted to re-colonize the disturbed area. Under this process, active monitoring is undertaken for a prescribed period of years to ensure that invasive plant species do not overtake the restoration and physical intervention to remove the invasive species may also be conducted. Implementation of self-heal restoration is outlined herein and examples are provided of a residential land use development and commercial site plan where this method is applied. Appendix C contains general planting recommendations and a list of acceptable and unacceptable plants that may be used in development projects.

## INTRODUCTION

The topic of Conservation Design principles is discussed in Chapter 5 of the Comprehensive Land Use Plan, particularly Section 5.3.3.6.2 entitled “*Open space requirement, unfragmented open space and habitat.*” This guide is intended to complement that chapter section. Support for Conservation Design is established in the Act. The approach to implement Conservation Design principles is summarized in this guide. A variety of sources were researched to prepare this manual including other municipal planning agencies and organizations that implement Conservation Design. A list of references is provided at the end of the document.

## PURPOSE AND NEED

Application and use of Conservation Design techniques is consistent with the requirements of the Act. ECL Article 57, Section 57-0121, “Central Pine Barrens comprehensive land use plan; interim regulations,” states that the Central Pine Barrens Comprehensive Land Use Plan shall be designed to:

- “...*protect, preserve and enhance the functional integrity of the Pine Barrens ecosystem and the significant natural resources, including plant and animal populations and communities, thereof..* ”
- “...*protect the quality of surface water and groundwater...*”
- “...*discourage piecemeal and scattered development...*”
- “...*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.*”

As noted above, the Act describes specific development criteria which encourage and promote the use of Conservation Design. It is important to note these criteria highlight development project design and configuration, with a particular emphasis on discouraging “piecemeal and scattered development” and encouraging development which is “compact, efficient and orderly.”

In a later portion of ECL Article 57, Section 57-0121, specific criteria are set forth for the compatible growth area where development is supposed to occur. Here, under paragraph 4, the Act states:

“4. *The land use plan with respect to the compatible growth areas shall be designed to:*

- a) *preserve and maintain the essential character of the existing Pine Barrens environment, including plant and animal species indigenous thereto and habitats therefor;*
- b) *protect the quality of surface and groundwaters;*
- c) *discourage piecemeal and scattered development;*
- d) *encourage appropriate patterns of compatible residential, commercial, agricultural, and industrial development in order to accommodate regional growth influences in an orderly way while protecting the Pine Barrens environment from the individual and cumulative adverse impacts thereof;*

- e) *accommodate a portion of development redirected from the preservation area. Such development may be redirected across municipal boundaries; and*
- f) *allow appropriate growth consistent with the natural resource goals pursuant to this title*

Again, as before, the Act emphasizes avoidance of “piecemeal and scattered development” and encourages “appropriate” and “orderly” development patterns which also protect the Pine Barrens ecosystem and preserve its essential character and habitats. Again, these are criteria which are consistent with the elements of Conservation Design.

Finally, Section 57-0121, paragraph 6, declares that the land use plan must include and address the “identification and mapping of critical resource areas” (such as wetlands and other sensitive ecological resources), provide development standards including minimum lot sizes, clearing allowances and wetland setbacks and “land protection mechanisms” including conservation easements, clustering and planned unit development. Collectively, these elements support Conservation Design which in turn will ensure continued preservation of wildlife habitat, communities of natural vegetation and open space systems.

## **PRESERVATION OF OPEN SPACE, OPEN SPACE CONFIGURATION & APPLICATION OF CONSERVATION DESIGN**

As noted in Chapter 5 of the Central Pine Barrens Comprehensive Land Use Plan, Conservation Design is a system which promotes preservation of open space via preservation of the significant natural resources and environmental features of a site.

The Northeastern Illinois Planning Commission and Chicago Wilderness (2003) define Conservation Design as

*“Conservation design is a design system that takes into account the natural landscape and ecology of a development site and facilitates development while maintaining the most valuable natural features and functions of the site. Conservation design includes a collection of site design principles and practices that can be combined to create environmentally sound development. The main principles for conservation design are:*

- 1. flexibility in site design and lot size,*
- 2. thoughtful protection and management of natural areas,*
- 3. reduction of impervious surface areas, and*
- 4. sustainable stormwater management.”*

Behan Planning Associates, LLC (2009) speaks of the creation of Conservation Subdivisions which are:

*“... an alternative method of subdividing properties which allows natural areas of land to be preserved by constructing the same project in a smaller area. This allows more natural or undeveloped areas to remain*



*undisturbed, reinforcing the surrounding beauty and acting as buffers to continued development. It also encourages the preservation of certain areas of land or features to be conserved and showcased as part of a richer landscape design..."*

Conservation Design prioritizes the preservation of natural, historic or other significant features of a development project site, including its natural landscape and ecology, while allowing other, more appropriate locations on the parcel to be developed.

## **CONSERVATION DESIGN METHODOLOGY**

When applying Conservation Design principles, one would first identify the significant natural resources of a site that should be preserved. This would include assets such as existing natural vegetation (including forest and woodland, old fields and successional habitats); habitats for rare, endangered, threatened or special concern wildlife; wetlands; rare ecological communities such as dwarf pine plains and pitch pine-scrub oak barrens; aesthetic resources such as scenic views and buffers; geological and topographical features such as kettleholes, swales, ridges, kames, drumlins and steep slopes and historic and cultural resources such as historic houses, cemeteries and Native American archaeological sites.

After addressing the significant natural resources on a site, an applicant would then seek to set aside such open space areas in as unfragmented fashion as possible while also seeking to link these preserved open space areas with existing open space areas or potential future open space areas on adjacent parcels. This more regional view seeks to maximize the preservation of the largest, least fragmented blocks of open space (and habitat) as possible. The end result would be that development would be situated on remaining areas of a site, away from the aforementioned area of higher environmental value, which would comprise the preserved open space of the project site.

It should be noted, however, that preservation of the significant natural resources on a project site (such as endangered species habitat or wetlands) should take precedence over the degree of open space fragmentation or linkage to adjacent open space, as those resources are required to be protected under existing regulations.

In addition, on the area to be developed, other green methodologies should be applied to increase the sustainable nature of the project. This includes working with existing contours in place of significant excavation and grading, installing pervious surfaces where possible to reduce generation of stormwater and planting landscaping comprised of native plants to retain indigenous species and reduce fertilizer and irrigation requirements.

One of the simplest means of applying the required Conservation Design methodology is the use of clustering in which, in the case of single-family residential development, residential lots are concentrated on a portion of a project site by allowing individual lots to be smaller than the required minimum lot size prescribed by the applicable zoning district. The remainder of the site

is then preserved as open space. Similar cluster layouts are also possible in commercial site plans or mixed use developments.

## **CONSERVATION DESIGN APPROACH**

While certain species, habitats, and other site features may require protection through existing regulations, Conservation Design provides flexibility in site and subdivision design to achieve the goals outlined in the Act and in the CLUP.

The open space shall include any species, habitats, or other areas that are required to be protected under existing regulations, and the remaining area of required open space shall serve to support the long-term preservation of existing resources. In order to achieve a successful Conservation Design project, the initial objective is to identify the significant attributes of a site including, but not limited to, and in no particular order:

- Wetlands
- Endangered species and their habitat
- Wildlife habitat
- Cultural, archaeological, or historic resources, sites or structures
- Woodlands
- Grassland and successional habitats
- Scenic views
- Hiking trails
- Agricultural land
- Hedgerows
- Steep slopes and other prominent topographic features

Once the significant features of a site are identified, refer to Figure 5-1 of the CLUP to determine the total amount of open space required on a project site. The goal is to connect sensitive ecological resources and/or other features (e.g., steep slopes, historic structures) within the boundaries of a project site and to connect to adjoining open spaces, where available, and achieve compact, efficient, and orderly development. No active recreational uses are permitted in the required open space area to remain natural.

### **Cover Types**

A wide range of existing conditions appear on development project sites in the CGA, each presenting a set of unique circumstances and opportunities including, but not limited to, a variety of ecological communities and/or pre-existing developed land uses. Existing land uses on a project site may be comprised of areas that are entirely natural (e.g., wetlands, woodlands, grasslands), partially natural areas alongside partially developed areas, entirely cleared sites, or any combination thereof.

## **Legal Protection Measures**

The entire area of open space must be legally protected through the recording of a legal instrument such as a Declaration of Covenants and Restrictions, Conservation Easement, Agricultural Reserve Easement, Scenic Easement, other applicable mechanism, or combination thereof. The Commission may recommend that covenants, for example, specify proper restrictions on use of open space and proper contingencies for its future management (Central Pine Barrens Handbook, 1994). In addition, future maintenance, protection, and management of open space shall be identified in the legal instrument recorded in the Office of the Suffolk County Clerk. Any contingencies or reserved rights must be identified and specified in the document.

## **Self-Heal Restoration**

The subsequent section discusses the self-heal restoration methodology and process, pursuant to CLUP Standard 5.3.3.6.2 of the CLUP. Self-heal restoration is generally a process in which revegetation of a previously disturbed site is allowed to occur without active replanting. It relies on natural recolonization to occur on a project site without immediate physical intervention. It may comprise the open space on a significantly disturbed parcel that is poised for redevelopment. Except where excessive excavation has occurred and natural soils have been removed, the soil is expected to contain the fertile seeds, rhizomes, roots, etc. of a natural pine barrens habitat that could regenerate as a pine barrens ecosystem. Areas of a project site previously cleared of natural vegetation are allowed to undergo natural succession to recover, be reclaimed, and be retained as open space. Monitoring of the self-heal area and maintenance of invasive species is encouraged in the process to ensure the resulting habitat supports natural species representative of the region.

**THIS PAGE INTENTIONALLY LEFT BLANK**

## **EXAMPLES OF SITE LAYOUTS**

This section lists and briefly describes the 15 graphically depicted examples of site layouts of Conservation Design and Self-Heal Restoration. The graphics are located in Appendix A.

### **Conservation Design Site Plan**

This site plan contains open space in accordance with the open space standard.

### **Conservation Design Commercial/Industrial Site Plan**

This site plan contains open space in accordance with the open space standard. The project site is adjacent to existing off-site open space.

### **Conservation Design Residential Subdivision 1**

This is a clustered subdivision with the existing wetland on the project site protected in unfragmented open space.

### **Conservation Design Residential Subdivision 2**

This site contains two separate wetland habitats, both of which require protection pursuant to existing regulations. In order to achieve the as of right subdivision yield and the required amount of open space, the two areas of open space containing freshwater wetlands are bisected by a road and two dwellings.

### **Conservation Design Residential Subdivision 3**

This site contains steep slopes and an extensive riverine wetland system with surface waters. The subdivision is clustered and each lot adjoins the open space. The project site is adjacent to existing off-site open space.

### **Conservation Design Residential Subdivision 4**

This subdivision is clustered to protect the existing steep slopes and habitat in the open space. The project site is adjacent to existing off-site open space.

### **Conservation Design Residential Subdivision with Agricultural Reserve Lot**

This site is under active agricultural production. The subdivision achieves the as of right yield with one large lot containing a dwelling and agricultural reserve to protect existing active agricultural resources and production and avoids the necessity of granting the agricultural easement to a public entity. The project site is adjacent to existing off-site agricultural lands.

### **Conservation Design Residential Subdivision with Agricultural Reserve**

This site is under existing agricultural production. The subdivision achieves the as of right yield with the open space as a separate agricultural reserve granted to a public entity, a non-profit, or held by the landowner to lease or continue farming to preserve existing agricultural resources and continue agricultural production.

### **Conservation Design Multi-family Development Project**

This site contains steep slopes and a freshwater wetland habitat. This is a multi-family residential development. Existing resources are protected in the required open space. The central park area is an active community park not included in the required open space. The project site is adjacent to existing off-site open space.

### **Conservation Design Reduced Density Residential Subdivision with Conservation Easements**

This reduced density subdivision creates lots that are twice the minimum lot area of the zoning district. The open space contains woodlands and steep slopes. The project conforms to the open space requirement, however, the open space is situated in the privately owned lots and is protected through conservation easements.

### **Conservation Design Mixed Use Development Project**

This is a large development project with mixed land uses including commercial, residential, active parkland, and the required amount of open space, as per the CLUP Standard.

### **Conventional Residential Subdivision with Fragmented Open Space**

This is a standard yield subdivision that fragments open space in buffers protected by covenants and restrictions and situated within the privately owned lots. Buffers in private lots have a high potential for disturbance.

### **Conventional Site Plan with Fragmented Open Space**

This site plan fragments open space in buffers to be protected in covenants but which will remain as part of the development parcel.

### **Residential Subdivision with Self-Heal Restoration Open Space**

This project site is entirely cleared. The subdivision is clustered to conserve the required amount of open space, which will undergo the self-heal restoration process.

### **Self-Heal Restoration Site Plan**

This project site is entirely cleared and contains an existing building to be demolished. The project will conserve the required amount of open space, which is currently a cleared area containing gravel and debris. The existing infrastructure will be demolished and removed. The required open space will undergo natural succession and be monitored through the self-heal restoration process.

**THIS PAGE INTENTIONALLY LEFT BLANK**



## **SELF-HEAL IMPLEMENTATION, SELF RESTORATION OR AUTO RESTORATION**

As defined in Chapter 4 of the CLUP, Self-Heal, Self Restoration or Auto Restoration is a process in which revegetation of a previously-disturbed site, such as one on which natural vegetation has been removed or degraded and which may have areas of bare soil and disturbed soil horizons, is allowed to occur without importation of plant material, active planting, transplanting of vegetation obtained from off-site or reseeding of vegetation. Instead, existing live seed banks, rhizomes, roots, etc. which remain beneath or adjacent to the disturbed area are permitted to re-colonize the disturbed area. Under this process, active monitoring is undertaken for a prescribed period of years to ensure that invasive plant species do not overtake the restoration and physical intervention to remove the invasive species may also be conducted.

Continued maintenance and monitoring after the prescribed period is encouraged.

As noted in Chapter 5, Section 5.3.3.6.2 of the CLUP, the Self-Heal approach is to be utilized as the first technique for revegetation on previously cleared and/or disturbed portions of sites undergoing new development. The following is a detailed description of the procedures and criteria to be followed when implementing the Self-Heal method:

1. An applicant shall prepare a self-heal restoration plan, subject to review and approval by the approving agency, which includes both narrative and graphic elements and which describes the restoration project site and describes how the self-heal approach will be implemented on the site. The plan must include and implement a schedule for any preliminary work which must be undertaken to render the site receptive to self-healing such as removal of surface layers of debris and existing invasive plants. The plan must also provide for monitoring of the re-emergence and re-colonization of native species, the frequent hand removal of invasive species to facilitate the re-emergence and re-colonization of native species and monitoring of invasive species over a period of 3 to 5 years, with the term prescribed by the approving agency. (Monitoring may be extended beyond the 3 to 5 year period by mutual consent of the approving agency and the applicant.) The plan must provide a detailed description of the number of personnel to implement the plan, the labor effort required, the number of man-hours required over the course of the self-heal restoration project, sampling points from which monitoring will be conducted, a photographic documentation effort which includes photographs of the self-heal area taken prior to project commencement, the qualifications of the personnel involved and other information deemed necessary.
2. In order to render the restoration site conducive to successful self-healing, the restoration site must be prepared, if warranted, so that it is receptive to self-healing. This may include the scraping or removal, from the surface, of foreign or related material, such as impermeable concrete or asphalt and thick layers of mulch or wood chips or piles of debris, that may retard or impede self-heal, especially its rate of self-restoration. It may

also be necessary to regrade and re-contour the restoration area prior to allowing the self-heal process to commence.

3. As part of the self-heal process, invasive species must be removed from the restoration area. Any invasive species present on the restoration site shall be removed by hand to allow the site to revert to its natural state where it has the potential to recover on its own. Where invasives are presently co-mingled with or alongside native species, the invasive species shall be removed selectively with the native species allowed to remain and survive. All invasive plants which have been removed shall be transported from the project site and disposed of in a lawfully-approved location and manner.
4. Invasive species shall be identified according to the inventory of unacceptable plants described in Commission's "General Planting Specification and List of Acceptable and Unacceptable Plants" (attached as Appendix B) and other widely-accepted lists of invasive plants.
5. The applicant shall employ the self-heal approach on the entire disturbed area within an area designated as open space (with the exception of land to be preserved as active farmland).
6. A qualified professional who has expertise in identifying both native Long Island plant species and non-native and invasive species of plants, possesses the ability to identify native and non-native invasive plant species at different stages of their life cycles and who has demonstrated experience in undertaking similar types of ecological restoration projects at a minimum of 5 previous sites and over a minimum of at least 2 years, shall be required to prepare the self-heal restoration plan and supervise its implementation.
7. No less than once per year the applicant shall submit a written status report on the progress of the self-heal area in achieving success, which includes both a narrative and photographs, a description and listing of species of native plants which have re-colonized the area and a description and listing of invasive species which have been removed.
8. A determination as to whether or not the self heal approach has been successful shall be issued by the approving authority three to five years after project commencement. The success of the self-heal effort may be affirmed prior to three years at any time when the self heal area appears to have restored itself naturally and/or reverts to native vegetation naturally without active planting. Success shall include revegetated areas covering a minimum of 85% of the self-heal restoration area and a minimum of 85% of the restoration area shall be comprised of native species, or to the maximum extent practicable.

If, after the expiration of the required monitoring period, the approving authority has determined that the self-heal effort has failed and has not produced clear and convincing evidence of recovery to the area's prior natural state (including a failure to achieve the minimum coverage percentages noted above and a confirmation that hand removal of invasive species has failed to prevent them from dominating the site), then the applicant must notify the approving authority and prepare and submit, to the approving authority for its review, a restoration plan for active restoration. The active restoration plan must aim to replant the "self-heal" area with native species from either nursery stock and/or natural, native, healthy transplanted or salvaged plant material, which shall be sourced from other sites in the Central Pine Barrens that were cleared in preparation of site development. The active restoration plan must contain relevant information including, but not limited to, planting specifications, species, size, quantity, spacing, identification of the source(s) of material, a planting schedule, and a three year maintenance schedule. Planting activity must occur within the next available planting season after the self-heal approach has failed. A three year maintenance schedule is required to ensure survival and replacement of dead plantings. If dead plant material (e.g., trees, shrubs) is removed and replaced, the three year period is restarted for the replacement plantings. All plantings must be tracked accordingly. Since the self-heal or restoration area will be within the open space area, the self-heal or restoration area, as well as the open space of which it is a part, must be protected in accordance with Standard 5.3.3.6.6, "Receiving entity and protection for open space areas." The self-heal area or restoration area shall be considered natural once it has become re-established as a naturally-vegetated area. This requirement shall not preclude other restoration requirements on the project site including, but not limited to landscaping, revegetation, and/or other active planting requirements.

## REFERENCES

- Barnstable County Assembly of Delegates. 2012. Ordinance 12-07: Amendment of the Regional Policy Plan per Section 8H of Chapter 716 of the Acts of 1989, as amended July 18, 2012.
- Behan Planning Associates, LLC. 2009. Design Guidelines for Conservation Subdivisions in the Town of Wallkill, NY. Saratoga Springs, NY. p. 4.
- Blumer, Karen. 2014. "Chapter 5 Proposed Amendment 'Self-Heal' Habitat Restoration presented to the Central Pine Barrens Commission January 15, 2014."
- Blumer, Karen. 2014. "Comments from Karen Blumer for the Pine Barrens Advisory Council Sections on "Self Heal" Approach to Ecological Restoration - Pine Barrens Commission Meeting, Riverhead. March 19, 2014."
- Cape Cod Commission. 1998. Designing the Future to Honor the Past Design Guidelines for Cape Code. Cape Cod Commission and Community Visions Inc.
- Cape Cod Commission. 2014. Design Resources. Retrieved September 3, 2014 from <http://www.capecodcommission.org/index.php?id=462&maincatid=25>.
- Contextual Design on Cape Cod. 2009. Technical Bulletin 96-001. Cape Cod Commission. Barnstable County Regional Government, Massachusetts.
- Central Pine Barrens Comprehensive Land Use Plan Volumes 1 and 2. 1996. Central Pine Barrens Joint Planning and Policy Commission.
- Central Pine Barrens Handbook, A Working Guide to The Long Island Pine Barrens Maritime Reserve Act of 1990 as amended by The Long Island Pine Barrens Protection Act of 1993. 1994. Central Pine Barrens Joint Planning and Policy Commission.
- Central Pine Barrens Joint Planning and Policy Commission: Final Report: Management Issues. 1994. The Ecology Committee.
- Conservation Design Resource Manual: Language and Guidelines for Updating Local Ordinances. 2003. The Northeastern Illinois Planning Commission and Chicago Wilderness. p. 2.
- Greener Prospects. 2014. Retrieved September 3, 2014 from <http://www.greenerprospects.com/products.html>.
- Land Choices. 2014. Retrieved September 12, 2014 from [http://www.landchoices.org/conservationsubs/4steps/consubs\\_4steps\\_arendt\\_5.htm](http://www.landchoices.org/conservationsubs/4steps/consubs_4steps_arendt_5.htm).
- Martha's Vineyard Commission, Open Space Preservation Policy for DRI Review. 2006. Retrieved September 3, 2014 from <http://www.mvcommission.org/doc.php/Open%20Space%20Policy.pdf?id=791>.
- Natural Lands Trust and the Pennsylvania Department of Conservation and Natural Resources: Growing Greener Conservation by Design. 2009. Retrieved September 3, 2014 from

[www.natlands.org/growinggreener](http://www.natlands.org/growinggreener) and [www.dcnr.state.pa.us](http://www.dcnr.state.pa.us).  
[http://www.landchoices.org/conservationsubs/consubs\\_pdfs/ggbrochure2009.pdf](http://www.landchoices.org/conservationsubs/consubs_pdfs/ggbrochure2009.pdf).

Natural Lands Trust. 2014. Retrieved September 3, 2014 from  
<http://www.natlands.org/publications/publications/>.  
[http://www.landchoices.org/conservationsubs/advnt\\_consubs\\_muni.htm](http://www.landchoices.org/conservationsubs/advnt_consubs_muni.htm).

New Jersey Pinelands Commission. 2004. Clustering Opportunities in the Pinelands. Retrieved September 4, 2014 from <http://www.state.nj.us/pinelands/infor/broch/clustering.pdf>.

New York Environmental Conservation Law Article 57, the Long Island Pine Barrens Protection Act of 1993. 1993.

Southampton Tomorrow Comprehensive Plan Update Implementation Strategies. 1999. Town of Southampton, NY.

Town of Cary, North Carolina. 2014. Retrieved September 3, 2014 from  
<http://vip.townofcary.org/standard/>.

Town of East Hampton Zoning Code. Chapter 193: Open Space Preservation. Article V. Preparation and Recording of Maps and Instruments. 2014. Retrieved September 3, 2014 from <http://www.town.east-hampton.ny.us/DocumentsPDF/PlanningDept/PlanningDept/Publications/CPFUpdate/Adopted/CPFProjectPlanAdopted.pdf>.

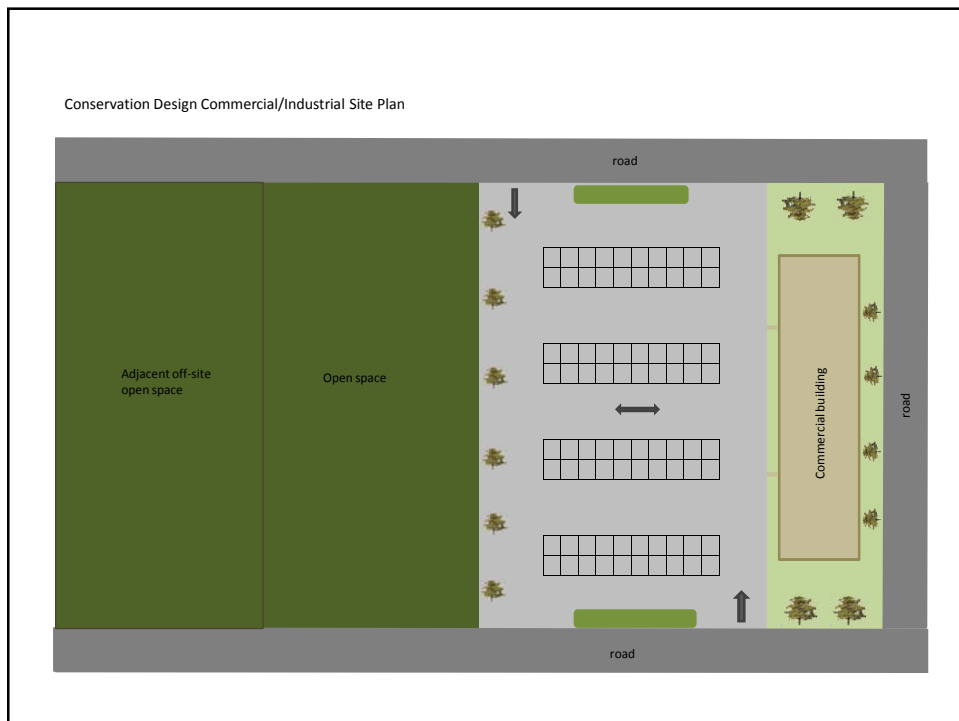
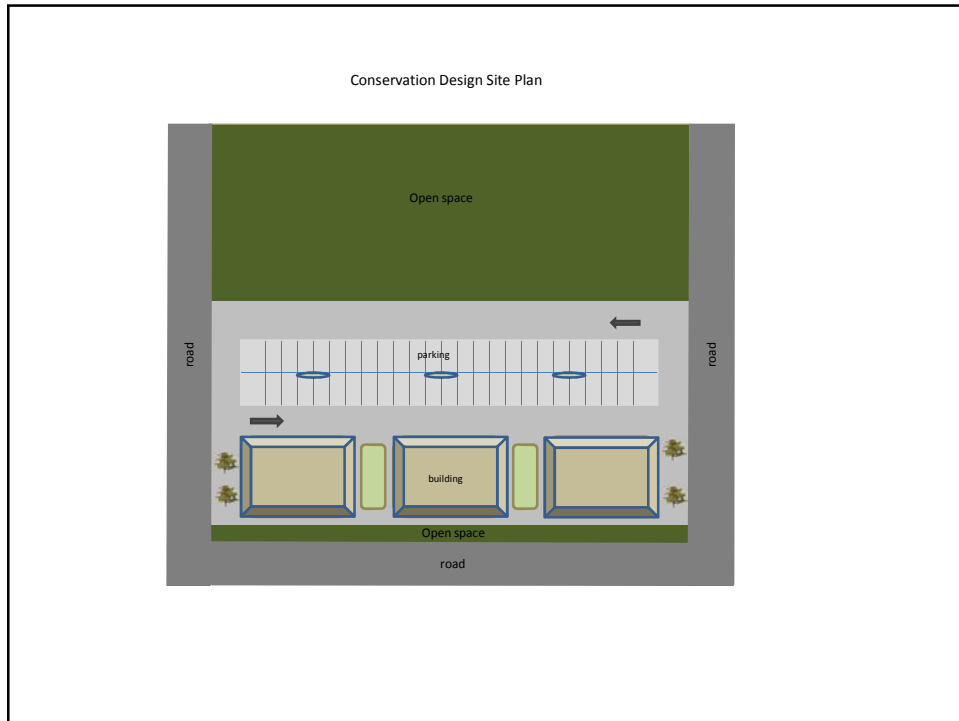
Town of Edgartown, Massachusetts. 2011. Edgartown Zoning Bylaws. Article XII. Cluster Developments. Retrieved September 3, 2014 [http://www.edgartown-ma.us/images/zoo/uploads/Article\\_XII\\_Cluster\\_Developments.pdf](http://www.edgartown-ma.us/images/zoo/uploads/Article_XII_Cluster_Developments.pdf)

Town of Tisbury, Massachusetts. 2014. Retrieved September 3, 2014 from  
[http://www.tisburyma.gov/Pages/TisburyMA\\_Planning/zoning/index](http://www.tisburyma.gov/Pages/TisburyMA_Planning/zoning/index).

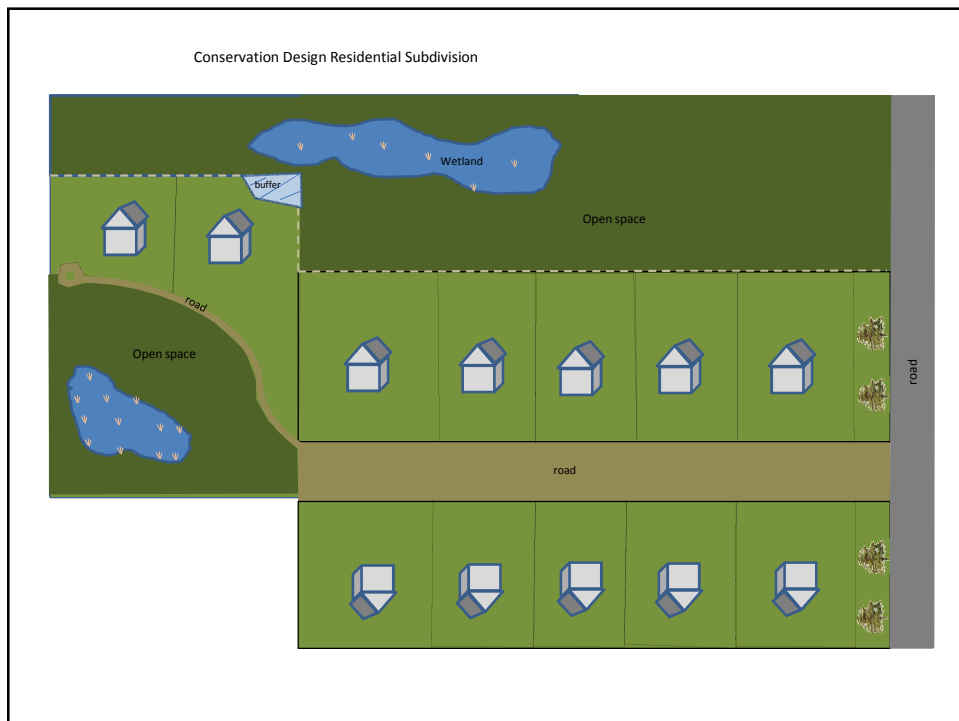
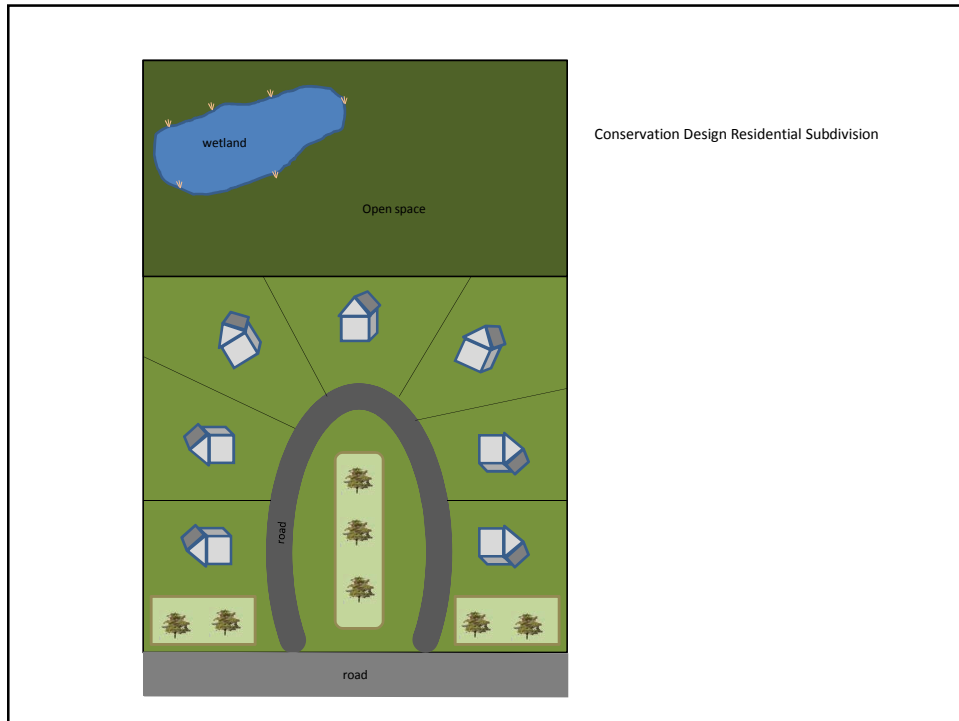
Wright, Steve. 2006. Conservation Subdivisions. On Common Ground. Winter 2006. Retrieved August 27, 2014 from <http://www.greenerprospects.com/PDFs/ConservationSubdivisions-Wright-Opt.pdf>.

**Appendix A:**  
**Examples of Site Layouts Demonstrating Conservation Design Opportunities and Self-Heal Restoration**

DRAFT

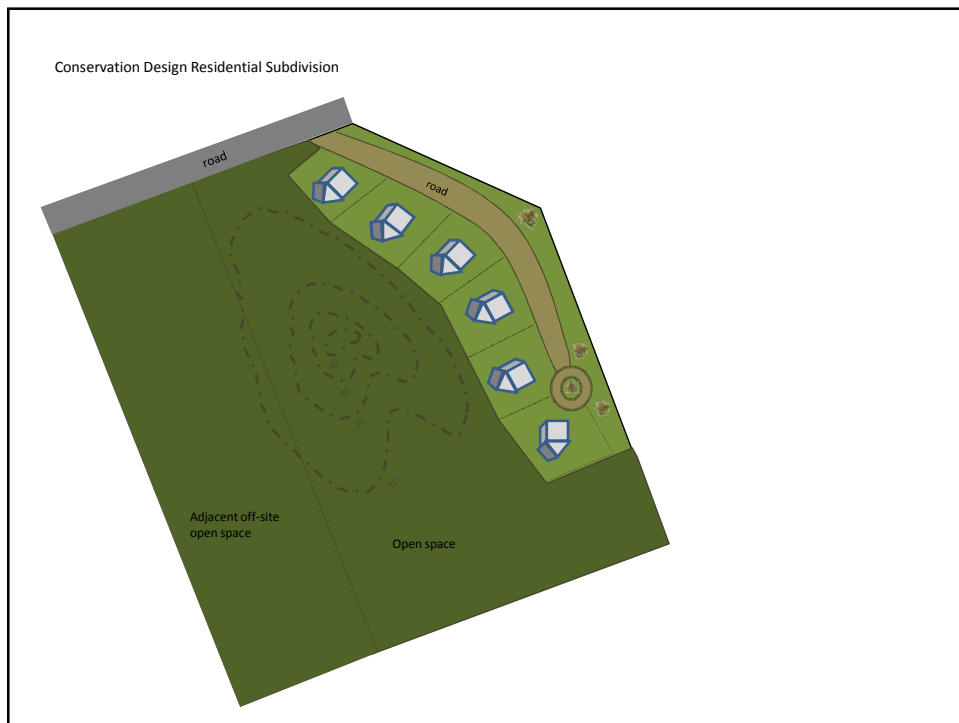
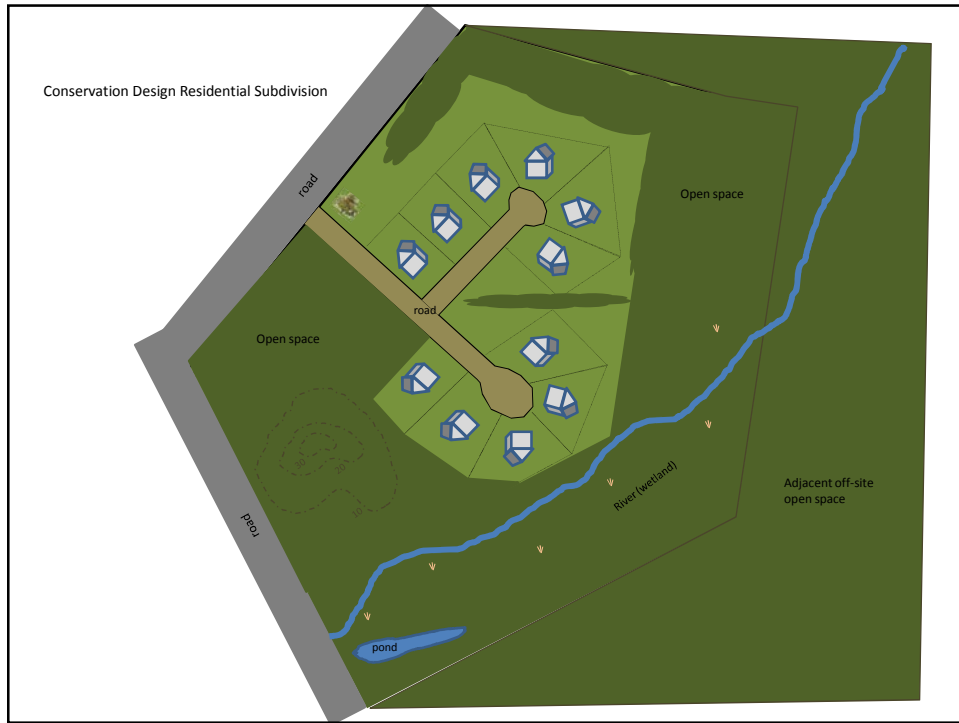


DRAFT

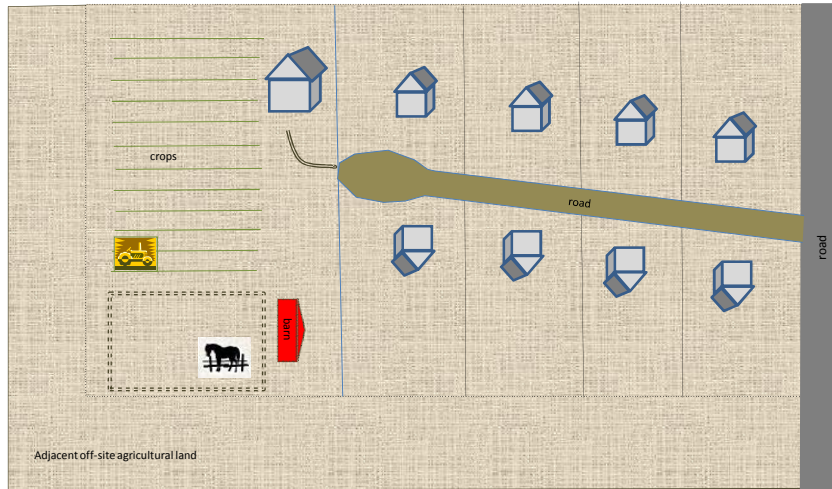




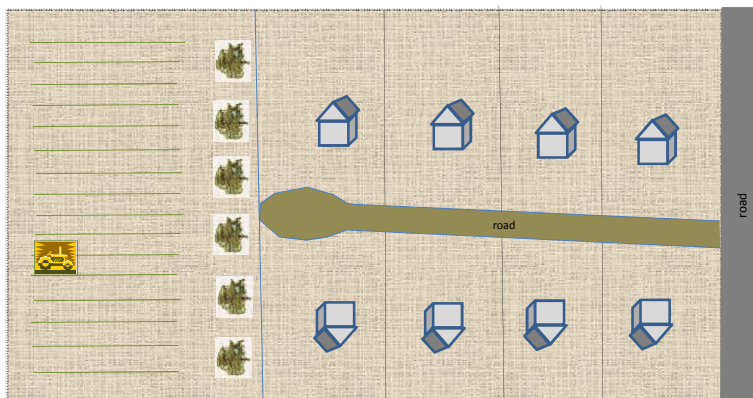
DRAFT



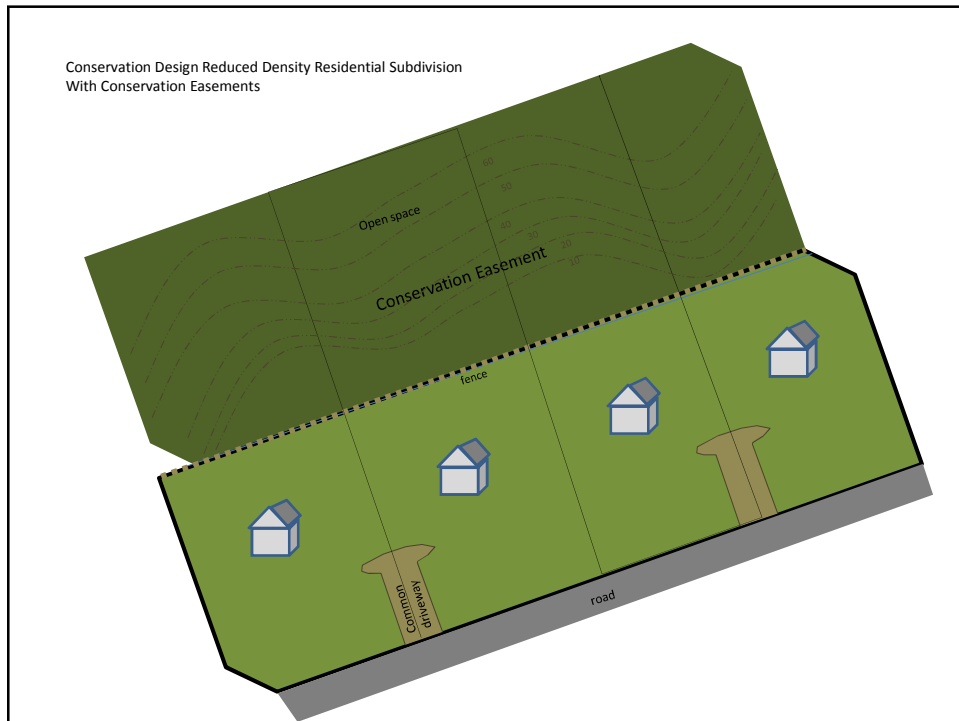
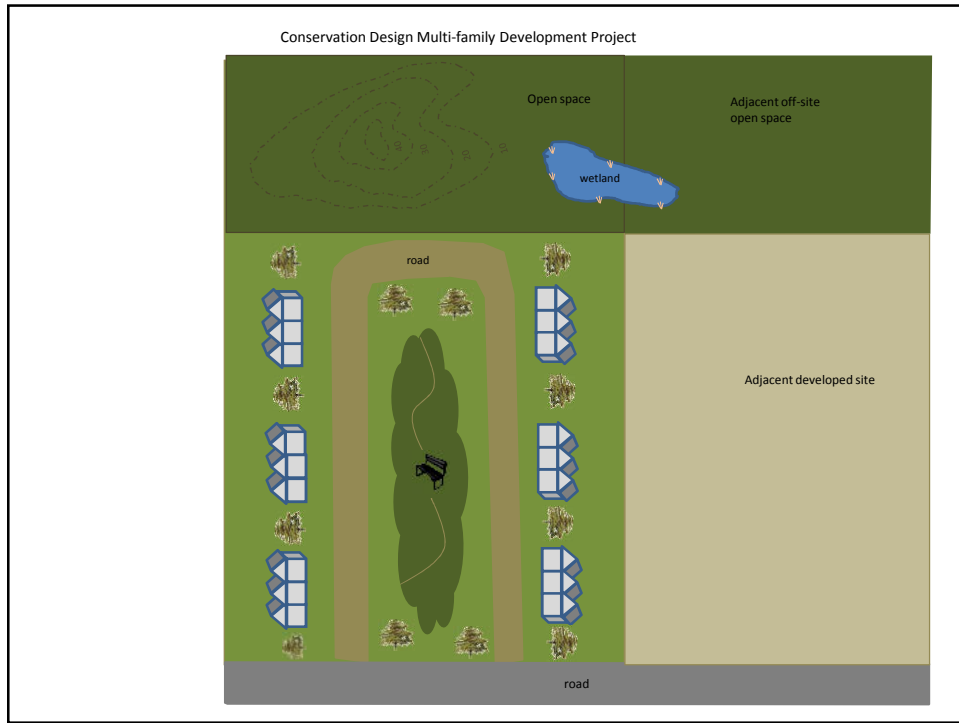
Conservation Design Residential Subdivision with Agricultural Reserve Lot



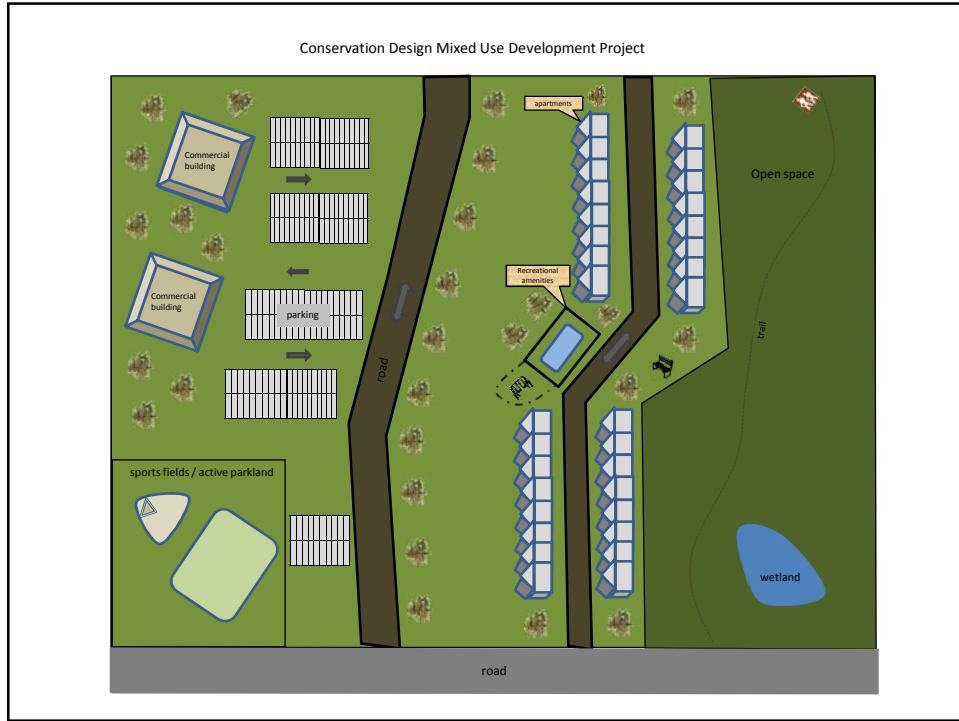
Conservation Design Residential Subdivision with Agricultural Reserve



DRAFT

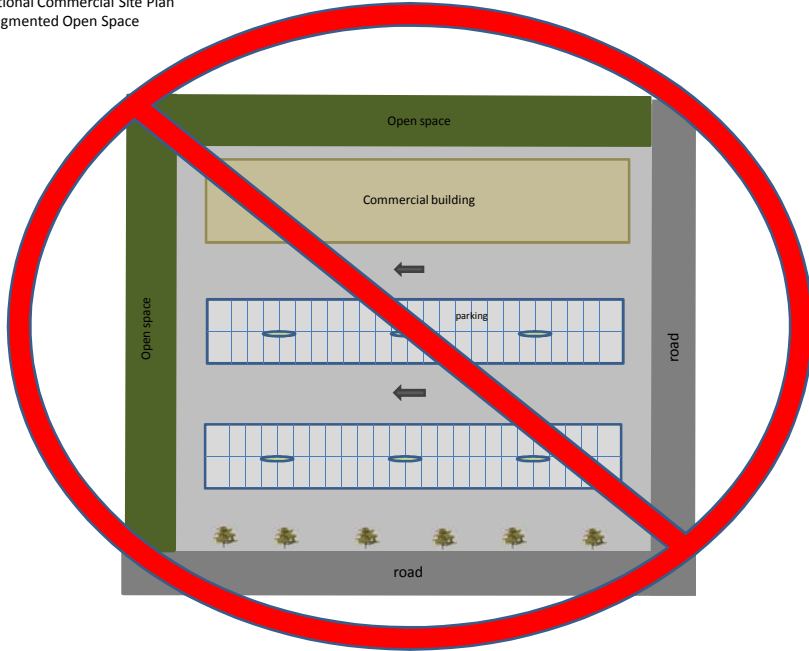


DRAFT

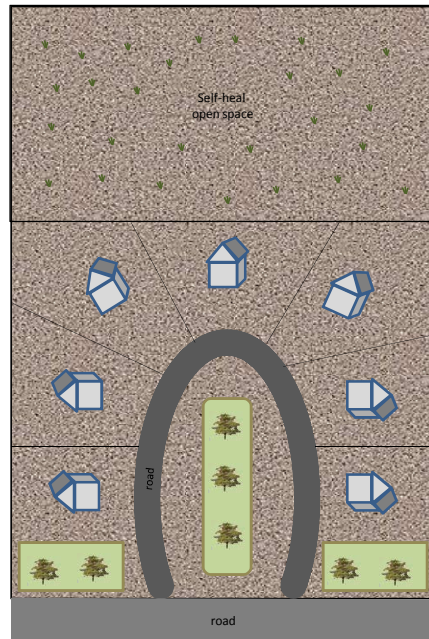


DRAFT

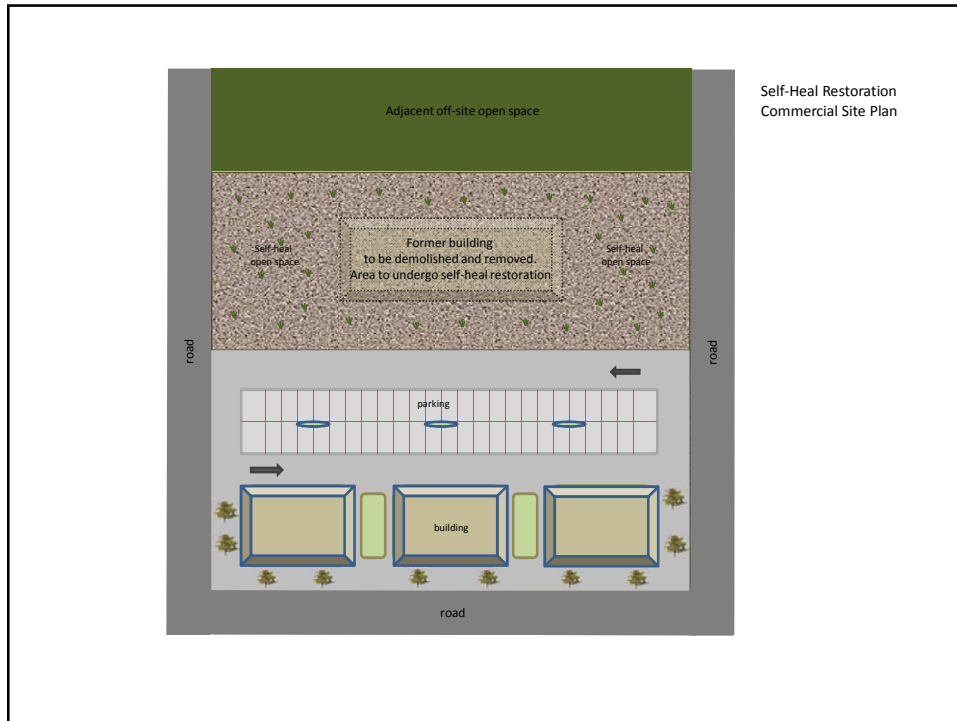
Conventional Commercial Site Plan with Fragmented Open Space



Residential Subdivision with Self-Heal Restoration Open Space



DRAFT



**Appendix C:**

**Commission General Planting Recommendations  
and List of Acceptable and Unacceptable Plants**

(3/18/15)

Native plants are more drought tolerant than nonnative species, are adapted to our local environment, maintain natural ecological diversity, perpetuate fast disappearing native genotypes, and comprise a form of habitat restoration.

Planting, vegetation and reforestation requirements should be tailored to individual sites so as to re-establish as much as possible the appropriate Long Island ecological community type(s).

**General Planting Specifications:**

These General Planting Specifications should be considered as guidelines and sizes, types of vegetation and planting configuration can be varied to address the constraints and parameters of a particular project site and to achieve restoration goals for a particular project site.

Deciduous Trees: 2 ½ – 3 ½ inches caliper, 10 feet on center, balled and burlapped

Evergreen Trees: only pitch pines and American holly, not white pines); minimum 4-5 feet

in height, balled and burlapped

Shrubs: minimum 2-3 gallon container or, where required, 4-6 gallon container grown, 4 feet on center.

Groundcovers: minimum 1 gallon container grown, 2 feet on center.

Natural grasses: plugs only, 12 inches on center.

Notes: - Mulching with native leaf litter, pine needles, or finely shredded wood is desirable.

-Temporary irrigation but typically, no permanent irrigation, may be useful.

-An 85 % or better survival rate over 2-5 years, is a desirable measure.

-Allowance may be made for supplementation with native wildflowers 12 inches on center.

**Recommended native trees:**

Acer rubrum	Red Maple
Alnus rugosa	Speckled Alder
Alnus serrulata	Common Alder
Amelanchier canadensis	Shadbush
<b>Betula lenta</b>	<b>Black Birch</b>
<b>Betula populifolia</b>	<b>Gray Birch</b>
Carpinus caroliniana	American Hornbeam or Ironwood

<i>Carya glabra</i>	Pignut Hickory
<b><i>Celtis occidentalis</i></b>	<b>Hackberry</b>
<i>Cornus florida</i>	Flowering Dogwood
<i>Crataegus crusgalli</i>	Hawthorne
<i>Diospyros virginiana</i>	Persimmon
<i>Fagus grandifolia</i>	American Beech
<i>Fraxinus americana</i>	White Ash
<b><i>Hamamelis virginiana</i></b>	<b>Witch Hazel</b>
<b><i>Ilex opaca</i></b>	<b>American Holly</b>
<i>Juniperus virginiana</i>	Eastern Red Cedar
<i>Liquidambar styraciflua</i>	Sweet Gum
<i>Liriodendron tulipifera</i>	Tulip Tree
<i>Magnolia virginiana</i>	Swamp Magnolia or Sweet Bay Magnolia
<i>Nyssa sylvatica</i>	Black Gum
<b><i>Pinus rigida</i></b>	<b>Pitch Pine</b>
<b><i>Populus tremuloides</i></b>	<b>Quaking Aspen</b>
<b><i>Prunus serotina</i></b>	<b>Black Cherry</b>
<b><i>Quercus alba</i></b>	<b>White Oak</b>
<i>Quercus bicolor</i>	Swamp White Oak
<b><i>Quercus coccinea</i></b>	<b>Scarlet Oak</b>
<i>Quercus ilicifolia</i>	Scrub Oak
<i>Quercus prinus</i>	Chestnut Oak
<b><i>Quercus rubra</i></b>	<b>Red Oak</b>
<i>Quercus stellata</i>	Post Oak
<i>Quercus velutina</i>	Black Oak
<b><i>Sassafras albidum</i></b>	<b>Sassafras</b>
<i>Tilia americana</i>	American Linden

Recommended native shrubs:

<i>Amelanchier canadensis</i>	Shadbush
<i>Aronia arbutifolia</i>	Red Chokeberry
<i>Aronia melanocarpa</i>	Black Chokeberry
<i>Clethra alnifolia</i>	Sweet Pepperbush
<i>Comptonia peregrina</i>	Sweetfern
<i>Gaylussacia baccata</i>	Black Huckleberry
<b><i>Ilex glabra</i></b>	<b>Inkberry</b>
<i>Ilex verticillata</i>	Winterberry
<i>Kalmia angustifolia</i>	Sheep Laurel
<i>Kalmia latifolia</i>	Mountain Laurel
<i>Leucothoe racemosa</i>	Fetterbush
<i>Lindera benzoin</i>	Spicebush
<i>Lyonia ligustrina</i>	Maleberry
<i>Lyonia mariana</i>	Staggerbush



<i>Myrica pensylvanica</i>	Bayberry
<b><i>Myrica pensylvanica</i></b>	<b>Northern Bayberry</b>
<b><i>Prunus maritima</i></b>	<b>Beach Plum</b>
<i>Rhododendron viscosum</i>	Swamp Azalea
<i>Rhus copallina</i>	Shining Sumac
<i>Rosa palustris</i>	Swamp Rose
<i>Rosa virginiana</i>	Pasture Rose
<b><i>Rosa virginiana</i></b>	<b>Virginia Rose</b>
<b><i>Rubus allegheniensis</i></b>	<b>Northern Blackberry</b>
<b><i>Salix discolor</i></b>	<b>Pussy Willow</b>
<i>Sambucus canadensis</i>	American Elder
<b><i>Spirea latifolia</i></b>	<b>Spirea or Steeplebush</b>
<b><i>Vaccinium corymbosum</i></b>	<b>Highbush Blueberry</b>
<i>Viburnum acerifolium</i>	Maple-leaved Viburnum
<i>Viburnum dentatum</i>	Arrowwood
<i>Viburnum lentago</i>	Nannyberry
<i>Viburnum nudum</i>	Witherod
<i>Viburnum prunifolium</i>	Black Haw
<i>Viburnum recognitum</i>	Northern Arrowwood

Recommended native grasses, wildflowers, groundcovers, etc.:

<i>Agulegia canadensis</i>	Wild Columbine
<b><i>Andropogon gerardi</i></b>	<b>Big Bluestem</b>
<b><i>Andropogon scoparius</i></b>	<b>Little Bluestem</b>
<i>Andropogon virginicus</i>	Broom Sedge
<i>Arctostaphylos uva-ursi</i>	Bearberry
<i>Asclepias tuberosa</i>	Butterfly Weed
<i>Aster linariifolius</i>	Stiff Aster
<i>Aster novae-angliae</i>	New England Aster
<i>Aster novi-belgii</i>	New York Aster
<i>Baptisa tinctoria</i>	Wild Indigo
<i>Carex pensylvanica</i>	Pennsylvania Sedge
<b><i>Dennstaedtia punctilobula</i></b>	<b>Hay-scented Fern</b>
<i>Deschampsia flexuosa</i>	Common Hairgrass
<i>Dryopteris cristata</i>	New York Fern
<b><i>Epigaea repens</i></b>	<b>Trailing Arbutus</b>
<i>Gaultheria procumbens</i>	Wintergreen
<i>Geranium maculatum</i>	Wild Geranium
<i>Hudsonia ericoides</i>	Golden Heather
<i>Liatris spicata</i>	Blazing Star
<i>Lobelia cardinalis</i>	Cardinal Flower
<i>Lupinus perennis</i>	Blue Lupine

<i>Maianthemum canadense</i>	Canada Mayflower
<i>Monarda didyma</i>	Beebalm
<i>Monarda fistulosa</i>	Bergamot
<i>Monarda punctata</i>	Horsemint
<i>Onoclea sensibilis</i>	Sensitive Fern
<i>Osmunda cinnamomea</i>	Cinnamon Fern
<i>Osmunda regalis</i>	Royal Fern
<b><i>Parthenocissus quinquefolia</i></b>	<b>Virginia Creeper</b>
<b><i>Pteridium aquilinum</i></b>	<b>Bracken Fern</b>
<i>Sisyrinchium angustifolium</i>	Blue-eyed Grass
<b><i>Solidago species</i></b>	<b>Goldenrod</b>
<b><i>Vaccinium angustifolium</i></b>	<b>Lowbush Blueberry</b>
<i>Vernonia noveboracensis</i>	New York Ironweed
<i>Viola pendata</i>	Birds Foot Violet

Invasive, nonnative plants specifically not recommended-acceptable:

<b><i>Acer platanoides</i></b>	<b>Norway Maple</b>
<b><i>Acer pseudoplatanus</i></b>	<b>Sycamore Maple</b>
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Akebia quinata</i>	Chocolate Vine
<i>Albezia julibrissin</i>	Mimosa
<i>Alliaria petiolata</i>	Garlic Mustard
<b><i>Ampelopsis brevipedunculata</i></b>	<b>Porcelain Berry Vine</b>
<i>Anthriscus sylvestris</i>	Wild Chervil
<i>Aralia elata</i>	Japanese Angelica Tree
<i>Artemisia vulgaris</i>	Mugwort or Common Wormwood
<b><i>Berberis thunbergii</i></b>	<b>Japanese Barberry</b>
<i>Cabomba caroliniana</i> A. Gray	Cabomba or Carolina Fanwort
<i>Cardamine impatiens</i> L.	Narrowleaf Bittercress
<i>Carduus nutans</i>	Nodding Thistle
<i>Caulerpa taxifolia</i>	Marine Killer Algae
<b><i>Celastrus orbiculatus</i></b>	<b>Asiatic or Oriental Bittersweet</b>
<i>Centaurea maculosa</i> (biebersteinii)	Spotted Knapweed
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Bull Thistle
<i>Clematis terniflora</i>	Yam Leaf Clematis
<b><i>Coronilla varia</i></b>	<b>Crown Vetch</b>
<i>Cynanchum louiseae</i> nigrum a/k/a Vincetoxicum nigrum	Black Swallow Wort
<i>Cynanchum rossicum</i> a/k/a Vincetoxicum rossicum	Pale Swallow Wort
<i>Datura stramonium</i>	Jimsonweed

<i>Egeria densa</i>	Brazilian Water Weed
<i>Eleagnus angustifolia</i>	Russian Olive
<b><i>Eleagnus umbellata</i></b>	<b>Autumn Olive</b>
<i>Euonymus alata</i>	Winged Burning Bush
<i>Euphorbia cyparissias</i>	Cypress Spurge
<i>Euphorbia esula</i>	Leafy Spurge
<i>Froelichia gracilis</i> (Hook. Moq.)	Cottonweed
<i>Glaucium flavum</i> Crantz	Sea Poppy or Yellow Horned Poppy
<i>Glossostigma diandrum</i>	Mudmat
<i>Hedera helix</i>	English Ivy
<i>Heracleum mantegazzianum</i>	Giant Hogweed
<i>Hermerocallis fulva</i>	Day Lily
<i>Hesperis matronalis</i> L.	Dame's Rocket
<i>Humulus japonicus</i>	Japanese Hops
<i>Hydrilla verticillata</i>	Hydrilla
<i>Hydrocharis morsus-ranae</i>	European Frog Bit (aquatic)
<i>Impatiens glandulifera</i> royle	Tall Impatiens or Purple Balsam
<i>Lepidium latifolium</i>	Tall Pepperweed or Perennial Pepperweed
<b><i>Lespedeza cuneata</i></b>	<b>Himalayan Bushclover</b>
<i>Ligustrum obtusifolium</i> Sie.& Zucc	Border Privet
<b><i>Ligustrum sinense</i></b>	<b>Chinese Privet</b>
<i>Lonicera bella</i>	Bell's Honeysuckle
<b><i>Lonicera japonica</i></b>	<b>Japanese Honeysuckle</b>
<b><i>Lonicera maackii</i></b>	<b>Amur Honeysuckle</b>
<i>Lonicera morrowii</i>	Morrow's Honeysuckle
<i>Lonicera</i> spp.	Bush Honeysuckle
<b><i>Lonicera tartarica</i></b>	<b>Tartarian Honeysuckle</b>
<i>Lonicera xylosteum</i> L.	Dwarf Fly Honeysuckle
<i>Ludwigia hexapetala</i>	Water Primrose
<i>Ludwigia peploides</i>	Floating Primrose Willow or Water Purslane
<b><i>Lythrum salicaria</i></b>	<b>Purple Loosestrife</b>
<i>Microstegium vimineum</i>	Japanese Stiltgrass
<b><i>Miscanthus sinensis</i></b>	<b>Eulalia or Chinese Silvergrass</b>
<i>Morus Alba</i>	White Mulberry
<i>Myosotis scorpioides</i> L.	Forget-me-not (aquatic)
<i>Myriophyllum aquaticum</i> (Vell.) Verdc a/k/a <i>M. brasilense</i>	Parrot Feather or Brazilian Water Milfoil
<i>Myriophyllum spicatum</i> L.	Eurasian Water Milfoil
<i>Najas minor</i> Allioni	Eutrophic Water Nymph
<i>Nasturtium officinale</i>	Watercress
<i>Nelumbo nucifera</i>	Pink Lotus
<i>Nymphoides peltata</i>	Yellow Floating Heart
<i>Paulownia tomentosa</i>	Princess Tree
<i>Phalaris arundinacea</i> L.	Reed Canary Grass

<i>Phragmites australis</i>	Common Reed Grass (non native genotype)
<i>Phyllostachys</i> spp.	Bamboo
<b><i>Pinus nigra</i></b>	<b>Black Pine</b>
<b><i>Polygonum cuspidatum</i></b>	<b>Mexican Bamboo or Japanese Knotweed</b>
<i>Polygonum perfoliatum</i>	Mile A Minute Vine
<i>Polygonum sachaliensis</i> (Fallopia)	Giant Knotweed
<i>Potamogeton crispus</i> L.	Curly Leaf Pondweed
<b><i>Pueraria lobata</i></b>	<b>Kudzu</b>
<i>Pyrus calleryana</i>	Bradford Pear
<i>Ranunculus ficaria</i>	Lesser Celandine
<i>Rhamnus cathartica</i>	Common Buckthorn
<b><i>Robina pseudoacacia</i></b>	<b>Black Locust</b>
<b><i>Rosa multiflora</i></b>	<b>Multiflora Rose</b>
<b><i>Rosa rugosa</i></b>	<b>Rugosa Rose or Salt Spray Rose</b>
<i>Rubus phoenicolasias</i> Maxim.	Wineberry
<b><i>Rudbeckia hirta</i></b>	<b>Black Eyed Susan</b>
<i>Salvinia molesta</i>	Giant Salvinia or Chinese Lespedeza
<i>Senecio jacobaea</i>	Tansy Ragwort or Stinking Willie
<i>Silphium perfoliatum</i> L.	Cup Plant
<i>Solanum dulcamara</i>	Climbing Nightshade
<i>Trapa natans</i>	Water Chestnut
<i>Verbascum thapsus</i>	Common Mullein
<i>Vinca minor</i>	Periwinkle
<i>Vitex rotundifolia</i> L. F.	Beach Vitex or Roundleaf Chastetree
<i>Wisteria</i> spp.	Wisteria

## Appendix B:

**Figure 5-1: Clearance and Open Space Standards**

This table shows total overall development project site clearance and requirement for open space including lots, roads, drainage and other improvements.

**For all privately owned parcels:**

<u>Zoning lot size as of June 28, 1995, with the exception that in the newly expanded Compatible Growth Area in the Carmans River Watershed created by the New York State Legislature's adoption on June 7, 2013 of an amendment to Environmental Conservation Law Article 57, Section 57-0107(10), the minimum lot size required by zoning shall be based on the zoning in effect on January 1, 2014.(*)</u>	<u>Maximum overall development project site clearance (**)</u>	<u>Minimum Open Space Requirement (**)</u>
10,000 square feet residential (1/4 acre)	90%	<u>10%</u>
15,000 square feet residential (1/3 acre)	70%	<u>30%</u>
20,000 square feet residential (1/2 acre)	60%	<u>40%</u>
30,000 square feet residential (2/3 acre)	58%	<u>42%</u>
40,000 square feet residential (1 acre)	53%	<u>47%</u>
60,000 square feet residential (1.5 acre)	46%	<u>54%</u>
80,000 square feet residential (2 acres)	35%	<u>65%</u>
120,000 square feet residential (3 acres)	30%	<u>70%</u>
<p>160,000 through 200,000+ square feet residential (4 - 5+ acres)</p> <p><del>Clearance Areas and Open Space on lots in this category shall not include the clearance necessary for the construction of driveways and septic systems, except that, in no case shall the total clearance in this category exceed 25%.</del></p> <p><u>The total amount of disturbance of natural vegetation shall not exceed the clearance percentage, except on flagpole lots where the area of the pole shall be exempt from the total lot area and the total amount of clearing permitted.</u></p>	<p style="text-align: center;"><del>2520%</del></p> <p><del>Clearance limitations on lots in this category shall not include the clearance necessary for the construction of driveways and septic systems. In no case shall the total clearance in this category exceed 25%.</del></p>	<u>75%</u>

Other defined residential zoning lot size	Interpolate from entries above.	Interpolate from entries above.
<u>Commercial, Industrial and Other or Mixed Use</u> <u>All other zoning categories, including those categories without defined zoning lot sizes and parcels owned by the State or a public corporation, except for publicly-owned lands dedicated to park purposes, open space or nature preserve or acquired with funds for open space preservation or parkland purposes.</u>	<del>65</del> <u>60</u> %	<u>40</u> %

*Notes:*

(\*) These entries are the minimum lot sizes required by zoning as of June 28, 1995 or the current zoning, whichever is more protective of the environment by minimizing clearance or maximizing open space, not the size of the subject parcels, with the exception that in the newly expanded Compatible Growth Area in the Carmans River Watershed created by the New York State Legislature's adoption on June 7, 2013 of an amendment to Environmental Conservation Law Article 57, Section 57-0107(10), the minimum lot size required by zoning shall be based on the zoning in effect on January 1, 2014.

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

## **6. Pine Barrens Credit Program**

### **6.1 Purpose of the Pine Barrens Credit Program**

As required in the Long Island Pine Barrens Protection Act, the Plan is designed to preserve the pine barrens ecology and to ensure the high quality of surface and groundwater within the Central Pine Barrens. The Act states that the Plan shall discourage piecemeal and scattered development, and accommodate development in a manner consistent with the long term integrity of the pine barrens ecosystem. The Act further states that the Plan should ensure a compact, efficient and orderly plan of development. The Legislature recognized that the Plan may restrict the use of some lands currently in private ownership and that these restrictions are necessary and desirable to protect and preserve the hydrologic and ecologic integrity of the Central Pine Barrens area, as well as the public health and welfare of future generations.

It is the primary purpose of the Pine Barrens Credit Program to maintain value in lands designated for preservation or protection under the Plan by providing for the allocation and use of Pine Barrens Credits (PBCs). The Pine Barrens Credit Program will also promote development which is compact, efficient and orderly, and which is designed to protect the quality and quantity of surface water and groundwater and the long term integrity of the pine barrens ecosystem.

### **6.2 Pine Barrens Credit Certificate defined**

A Pine Barrens Credit (PBC) Certificate is a document issued on behalf of the Commission which indicates the number of Pine Barrens Credits to which the owner of a particular parcel of land is entitled and which attests to the fact that the development rights of a particular parcel of land in a sending district of the Central Pine Barrens have been severed from the land by the recording of a conservation easement, and that these rights are available for sale or use.

### **6.3 Allocation of Pine Barrens Credits** *(amended 11/21/12)*

For the purpose of computing the allocation of Pine Barrens Credits on land located within that portion of the Core Preservation Area which was in existence prior to January 1, 2014, a parcel of land is defined as a separately assessed Suffolk County Real Property Tax Parcel which is within the Core Preservation Area and existed on the Central Pine Barrens Comprehensive Land Use Plan initial adoption date of June 28, 1995.

For the purposes of computing the allocation of Pine Barrens Credits on land in the expanded portion of the Core Preservation Area in the Carmans River Watershed created by the New York State Legislature's adopted amendment to Environmental Conservation Law Article 57, Section 57-0107(11) on June 7, 2013, a parcel of land is defined in the expanded Core Preservation Area

as a separately assessed Suffolk County Real Property Tax Parcel which existed on January 1, 2014, the effective date of the amendment to Environmental Conservation Law Article 57, Section 57-0107(11).

### **6.3.1 Method of allocation**

One (1) Pine Barrens Credit shall be allocated for each single family dwelling permitted on a residentially zoned parcel of land located within the Core Preservation Area or a designated sending area designated within this Plan located within that portion of the Core Preservation Area which was in existence prior to January 1, 2014, based upon the development yield set forth in Sections 6.3.1.1.1 through 6.3.1.1.9 of this Plan under the zoning regulations in existence when this Plan is adopted in June, 1995.

One (1) Pine Barrens Credit shall be allocated for each single family dwelling permitted on a residentially zoned parcel of land located in the expanded Core Preservation Area of the Carmans River Watershed Area created by the New York State Legislature's adopted amendment to Environmental Conservation Law Article 57, Section 57-0107(11) on June 7, 2013, based upon the development yield set forth in Sections 6.3.1.1.1 through 6.3.1.1.9 of this Plan under the zoning regulations in existence as of January 1, 2014, the effective date of this adopted amendment to Environmental Conservation Law Article 57, Section 57-0107(11).

Development yield is established by multiplying the gross lot area of the parcel by the development yield factor for each residential zoning category. The development yield factors for the various residential zoning categories are enumerated in Section 6.3.1.1 below, in which one acre equals 43,560 square feet.

#### **6.3.1.1 Development yield factors and computation for single family residentially zoned property** *(amended 5/16/12)*

- 6.3.1.1.1 If zoning allows one (1) dwelling unit per ten thousand (10,000) square feet, the development yield factor is 2.70 Pine Barrens Credits per acre.
- 6.3.1.1.2 If zoning allows one (1) dwelling unit per fifteen thousand (15,000) square feet, the development yield factor is 2.00 Pine Barrens Credits per acre.
- 6.3.1.1.3 If zoning allows one (1) dwelling unit per twenty thousand (20,000) square feet, the development yield factor is 1.60 Pine Barrens Credits per acre.
- 6.3.1.1.4 If zoning allows one (1) dwelling unit per forty thousand (40,000) square feet, the development yield factor is 0.80 Pine Barrens Credit per acre except for Southampton Town old filed map parcels for which it is 1.00 PBC per acre. *(amended 5/16/12)*
- 6.3.1.1.5 If zoning allows one (1) dwelling unit per sixty thousand (60,000) square feet, the development yield factor is 0.60 Pine Barrens Credit per acre except for Southampton



- Town old filed map parcels for which it is 0.66 PBC per acre. *(amended 5/16/12)*
- 6.3.1.1.6 If zoning allows one (1) dwelling unit per eighty thousand (80,000) square feet, the development yield factor is 0.40 Pine Barrens Credit per acre except for Southampton Town old filed map parcels for which it is 0.50 PBC per acre. *(amended 5/16/12)*
- 6.3.1.1.7 If zoning allows one (1) dwelling unit per one hundred twenty thousand (120,000) square feet, the development yield factor is 0.27 Pine Barrens Credit per acre except for Southampton Town old filed map parcels for which it is 0.33 PBC per acre. *(amended 5/16/12)*
- 6.3.1.1.8 If zoning allows one (1) dwelling unit per one hundred sixty thousand (160,000) square feet, the development yield factor is 0.20 Pine Barrens Credit per acre.
- 6.3.1.1.9 If zoning allows one (1) dwelling unit per two hundred thousand (200,000) square feet, the development yield factor is 0.16 Pine Barrens Credit per acre except for Southampton Town old filed map parcels for which it is 0.20 PBC per acre. *(amended 5/16/12)*
- 6.3.1.1.10 If zoning allows one (1) dwelling unit per four hundred thousand (400,000) square feet, the development yield factor is 0.08 Pine Barrens Credit per acre.
- 6.3.1.1.11 One (1) acre as used in 6.3.1.1.1 through 6.3.1.1.10 equals forty three thousand five hundred sixty (43,560) square feet.
- 6.3.1.1.12 A fractional allocation of a Pine Barrens Credit shall be rounded upward to the nearest one hundredth ( $1/100\text{th} = 0.01$ ) of a Pine Barrens Credit. *(amended 5/16/12)*
- 6.3.1.1.13 If zoning allows one (1) dwelling unit per thirty thousand (30,000) square feet, the development yield factor is 1.20 Pine Barrens Credits per acre. *(amended 5/16/12)*

These development yield factors and sample computations are summarized in Figure 6-1 and Figure 6-1a.

<b>Figure 6-1: Pine Barrens Credit Program development yield factors for single family residentially zoned property</b> <i>(amended 5/16/12)</i>		
<b>Provision</b>	<b>If zoning allows:</b>	<b>Then the development yield factor (*) is:</b>
6.3.1.1.1	1 (one) dwelling unit per 10,000 sq ft	2.70 PBCs per acre(**)
6.3.1.1.2	1 (one) dwelling unit per 15,000 sq ft	2.00 PBCs per acre(**)
6.3.1.1.3	1 (one) dwelling unit per 20,000 sq ft	1.60 PBCs per acre(**)

6.3.1.1.4	1 (one) dwelling unit per 40,000 sq ft	0.80 PBC per acre(**) except Southampton Town old filed map parcels which receive 1.00 PBC per acre
6.3.1.1.5	1 (one) dwelling unit per 60,000 sq ft	0.60 PBC per acre(**) except Southampton Town old filed map parcels which receive 0.66 PBC per acre
6.3.1.1.6	1 (one) dwelling unit per 80,000 sq ft	0.40 PBC per acre(**) except Southampton Town old filed map parcels which receive 0.50 PBC per acre
6.3.1.1.7	1 (one) dwelling unit per 120,000 sq ft	0.27 PBC per acre(**) except Southampton Town old filed map parcels which receive 0.33 PBC per acre
6.3.1.1.8	1 (one) dwelling unit per 160,000 sq ft	0.20 PBC per acre(**)
6.3.1.1.9	1 (one) dwelling unit per 200,000 sq ft	0.16 PBC per acre(**) except Southampton Town old filed map parcels which receive 0.20 PBC per acre
6.3.1.1.10	1 (one) dwelling unit per 400,000 sq ft	0.08 PBC per acre(**)
6.3.1.1.13	1 (one) dwelling unit per 30,000 sq ft	1.20 PBC per acre(**)

*(\*) These development yield factors are augmented by section 6.3.1.1.12: fractional allocations are rounded upward to the nearest one hundredth (1/100 = 0.01) of a Pine Barrens Credit (PBC).*

*(\*\*) One acre equals 43,560 sq ft.*

*“Southampton Town old filed map parcels” are defined in Southampton Town Code Section 330-53, including any amendments by the Town to this provision in the future.*

**Figure 6-1a Pine Barrens Credit allocation examples  
for single family residentially zoned property** *(amended 5/16/12)*

**Example 1:** A 1.00 acre parcel zoned one unit per 40,000 square feet.  
1.00 acre X 0.80 Pine Barrens Credit per acre = 0.80 PBC

**Example 2:** A 3.25 acre parcel zoned one unit per 40,000 square feet.  
3.25 acres X 0.80 PBC per acre = 2.60 PBCs

**Example 3:** A 7.89 acre parcel zoned one unit per 80,000 square feet.  
7.89 acres X 0.40 PBC per acre = 3.156 PBCs  
This is then rounded upward to 3.16 PBCs as per section 6.3.1.1.12.

**Example 4:** A 10.53 acre parcel zoned one unit per 120,000 square feet.  
10.53 acres X 0.27 PBC per acre = 2.8431 PBCs  
This is then rounded upward to 2.85 PBCs as per section 6.3.1.1.12.

**Example 5:** A 0.25 acre parcel zoned one unit per 200,000 square feet.  
0.25 acre X 0.16 PBC per acre = 0.04 PBC  
This is then increased to the minimum allocation of 0.10 PBC as per section 6.7.6.7.

**6.3.2 Allocation for property zoned for other than single family residential use** *(amended 11/21/12)*

The Commission establishes the allocations in Figure 6-2 for property in the Core Preservation Area, which is designated as a sending area, as well as for sending area property within the Compatible Growth Area which is zoned for other than single family residential use.

**Figure 6-2: Pine Barrens Credit Program development yield factors  
for property zoned for other than single family residential use.** *(amended 11/21/12)*

*(Note: Although some of the following zoning classes are now obsolete, those have been retained here in the event that a parcel in a sending area had one of those zoning categories on its relevant record date listed in Section 6.3.)*

<b>Zoning Class</b>	<b>Pine Barrens Credits per acre</b>
Defense Institutional District	1.00 PBC per acre*
Industrial A District	1.00 PBC per acre*

Highway Business	1.00 PBC per acre*
J Business 2 District	1.00 PBC per acre*
J Business 3 District	0.20 PBC per acre*
J Business 4 District	1.00 PBC per acre*
J Business 5 District	1.00 PBC per acre*
Light Industrial 1 District	1.00 PBC per acre*
Light Industrial 3 District	0.27 PBC per acre*
Light Industrial 200 District	0.20 PBC per acre*
Light Industrial 40 District	1.00 PBC per acre*
Brookhaven Multi-Family 1 District	0.27 PBC per acre*
Brookhaven PRC	0.10 PBC per acre*
Riverhead Natural Resource Preservation District	0.20 PBC per acre*
Riverhead Open Space Conservation District	0.25 PBC per acre*
All Other Districts	0.10 PBC per acre*
*One acre equals 43,560 square feet; fractional allocations are rounded upward to the nearest one hundredth (1/100 = 0.01) of a Pine Barrens Credit (PBC). No fewer than 0.10 (one tenth) Pine Barrens Credit shall be allocated by the Clearinghouse for any parcel of land, regardless of its size or road accessibility.	

### **6.3.3 Limitations on allocation** *(amended 11/21/12)*

The following limitations shall apply to the allocation of Pine Barrens Credits:

- 6.3.3.1 No allocation shall be made for any property owned or held by a public agency, municipal corporation or governmental subdivision, including property held by reason of tax default.
- 6.3.3.2 No allocation shall be made for any property for which the development rights have previously been fully used, or allocated for use, under this Plan or any other program.
- 6.3.3.3 No allocation shall be made for any property owned or held for the purpose of land protection, preservation or conservation.
- 6.3.3.4 Partially improved parcels shall receive a decreased allocation based upon the extent of improvement. Furthermore, there shall be a proportional decrease in allocation based

upon the receipt of all discretionary permits for improvement of a parcel or hardship permits issued by the Commission. The Pine Barrens Credit allocation for a parcel of land shall be reduced by one (1) Pine Barrens Credit for each existing single family unit on the parcel or equivalent as such equivalent is described in the document entitled *Standards for Approval of Plans and Construction for Sewage Disposal Systems for Other Than Single Family Residences*, approved by the Suffolk County Department of Health Services, Division of Environmental Quality, on June 15, 1982, revised March 5, 1984 and December 1, 2009, and as implemented prior to February 5, 1988, as amended from time to time (hereinafter referred to as the "Suffolk County Health Department Standards"). *(amended 5/16/12)*

- 6.3.3.5 In situations where a development project site contains a parcel that is split between the Core Preservation Area and Compatible Growth Area, and where the entire project site's acreage (i.e., Core and Compatible Growth Area acreage added together) was used for determining the amount of clearing that can occur on the Compatible Growth Area portion, then no Pine Barrens Credits can be obtained on the Core Preservation Area portion. *(amended 11/21/12)*
- 6.3.3.6 Pine Barrens Credits can only be allocated to partially developed parcels when the parcel size is at least twice the minimum lot size for the zoning district to which that parcel belongs and the parcel is otherwise eligible for a Credit allocation under this Plan. *(amended 11/21/12)*
- 6.3.3.7 In allocating Credits to portion(s) of an otherwise eligible parcel, the Clearinghouse shall consider the extent of any prior public acquisition of that parcel or any portion thereof. *(amended 11/21/12)*
- 6.3.3.8 No allocation of Credits shall be made to any parcel or portion thereof upon which an ownership overlap condition exists among more than one competing owners unless and until such ownership overlap condition is resolved by the applicant to the satisfaction of the Commission. In addition, applications for Credits on such parcels where the overlap condition includes as one of the competing owners any governmental agency or body, the Commission shall communicate in writing to the relevant governmental agency or body a request for guidance on resolving the overlap condition. *(amended 11/21/12)*

## **6.4 Designated receiving districts for Pine Barrens Credits**

### **6.4.1 Definitions**

For the purposes of Chapter 6 of this Plan, the following definitions shall apply.

#### **6.4.1.1 As of right Pine Barrens Credit redemption**

"As of right" means that the redemption of Pine Barrens Credits entitles a person to an increase in intensity or density in accordance with this Plan. Town Planning Boards, and, in the Town of Riverhead, the Riverhead Town Board performing the function of site plan review, may determine compliance with this Plan as part of the subdivision or site plan review procedures,

and shall approve such use of Pine Barrens Credits with no additional special permit required.

Pine Barrens Credits generated in any area in the Central Pine Barrens within any town shall be redeemable for any as of right Pine Barrens Credit uses in each respective town as described in this Plan subject only to the restrictions expressed herein.

#### **6.4.1.2 Increased density and increased intensity**

"Increased density" means an increase in the number of residential units. "Increased intensity" means an increase in the gross floor area of a nonresidential structure and/or use. Development in accordance with existing zoning regulations is not considered an increase in permitted land use intensity or density.

### **6.4.2 Town of Brookhaven designated Pine Barrens Credit receiving districts**

#### **6.4.2.1 Brookhaven Pine Barrens Credit Program overview**

The Pine Barrens Credit Program for the Town of Brookhaven is designed to redirect development for residentially zoned lands within the Core Preservation Area to receiving districts throughout the Town utilizing two basic approaches. These are:

1. "As of right" Credit Redemption: The transfer of development rights through Residential Overlay Districts (RODs) to one (1) and two (2) acre residentially zoned lands with increased density through approval of the Planning Board pursuant to the definition in Section 6.4.1.1 of this Plan, and
2. "Non as of right" Credit Redemption: The use of innovative planning techniques such as Planned Development Districts (PDDs), Planned Retirement Communities (PRCs), and other zoning incentives.

#### **6.4.2.2 Brookhaven "As of Right" Residential Overlay District specifications**

The Town of Brookhaven has identified Residential Overlay Districts to receive Pine Barrens Credits from the Core Preservation Area where increased density ~~may~~shall be allowed in those residential districts set forth in a map contained in Figure 6-3.

##### **6.4.2.2.1 Brookhaven density increase**

Under the Brookhaven transfer of development rights program, a single Pine Barrens Credit shall permit an increase in density equal to one (1) single family dwelling as defined in the Brookhaven Town Code.

##### **6.4.2.2.2 Brookhaven total yield** *(amended 5/16/12)*

Under the Brookhaven transfer of development rights program, the total yield in all eligible one (1) and two (2) acre residentially zoned receiving districts shall be equal to the square footage of the total parcel contained within the receiving site divided by the minimum square footage allowed under the Brookhaven Town Code in the appropriate residential zone. The minimum lot size in such eligible residentially zoned receiving districts shall allow for the construction of necessary roads and recharge basins, and the possible dedication of open space.

Notwithstanding the above, the minimum lot size shall be as necessary to assure compliance with Section 6.5.2 of this Plan. However, such decrease in the minimum lot size below the formula set forth above shall only be authorized where absolutely necessary to comply with Section 6.5.2 of this Plan, and in no instance shall the average lot size be less than 30,000 square feet in A-1 zoning districts and 60,000 square feet in A-2 zoning districts.

#### **6.4.2.2.3 Brookhaven approval subject to criteria** *(amended 5/16/12)*

This “as of right” increase shall be allowed, subject to the approval of the Town of Brookhaven Planning Board during the subdivision and site plan approval processes, based upon the criteria set forth below and those contained within Section 85-450(D) of the Brookhaven Town Code.

#### **6.4.2.2.4 Brookhaven criteria**

The following two criteria shall apply:

1. An area of a parcel shall be constituted ineligible as a Residential Overlay District where the area of the parcel is located within:
  - a. five hundred (500) feet of any stream, bluff, surface water, or wetlands regulated by the New York State Department of Environmental Conservation or the Town of Brookhaven;
  - b. ~~the one hundred (100) year flood plain~~ hurricane inundation zones as defined by the Federal Emergency Management Agency and the New York State Emergency Management Office (including, but not limited to, Fire Island), and Special Flood Hazard Areas as determined by the National Flood Insurance Rate Maps;
  - c. the South Setauket Special Groundwater Protection Area (South Setauket SGPA);
  - d. the state's Wild, Scenic and Recreational River corridors as mapped by the New York State Department of Environmental Conservation;
  - e. ~~existing public lands~~ publicly or privately owned parcels held for, or dedicated to, conservation or agricultural preservation purposes, including, but not limited to, parklands, parcels with conservation or agricultural preservation easements and parcels whose development rights or development potential have been removed or restricted;
  - f. the Core Preservation Area.

2. A parcel shall be ineligible as a Residential Overlay District where forty percent (40%) or more of the land area of the parcel contains steep slopes of fifteen percent (15%) or greater.
3. A parcel shall be ineligible as a Residential Overlay District where the parcel does not conform to the requirements for such Districts contained within Section 85-450(D) of the Brookhaven Town Code.

### **6.4.2.3 Innovative strategies for the redemption of Brookhaven Pine Barrens Credits**

In addition to the Planning Board approval process as described in Section 6.4.1.1 of this Plan, the Town of Brookhaven intends to use creative techniques to provide additional mechanisms for the use of Pine Barrens Credits during the life of the Pine Barrens Credit Program. The use of Planned Development Districts, subject to the approval of the Town Board, will allow for the conversion of residential development rights into commercial, industrial and/or other uses, which will serve to limit the final number of residential dwelling units to be built while avoiding a negative tax impact.

In addition, the Town of Brookhaven will seek to utilize the following initiatives, through approval of the Brookhaven Town Board, for redemption of Pine Barrens Credits where appropriate:

1. Use of "~~R~~"residential districts, consisting of currently residentially zoned parcels, which are too small for Planned Development District use, but which are more appropriately zoned for commercial and industrial use;
2. The use of Planned Retirement Communities as already set forth in the current Brookhaven Town Code;
3. Other innovative zoning incentives.

### **6.4.2.4 Additional Brookhaven Pine Barrens Credit Program policies**

#### **6.4.2.4.1 Transfers from Hydrogeologic Zone 3 to Hydrogeologic Zone 6**

The Town of Brookhaven may also seek the support of the Commission to obtain a ruling from the Suffolk County Board of Health to allow for the transfer of development rights from the Core Preservation Area, which is located in Hydrogeologic Zone 3, to selected portions of Hydrogeologic Zone 6. This transfer would utilize the increased bonus density formula set forth above, and transfer Pine Barrens Credits to the northern portions of Hydrogeologic Zone 6 (i.e., north of Sunrise Highway, NYS Route 27) so as not to increase nitrogen loadings to the Great South Bay, Moriches Bay or their tributary streams or wetlands.

#### **6.4.2.4.2 Brookhaven acquisition priorities**

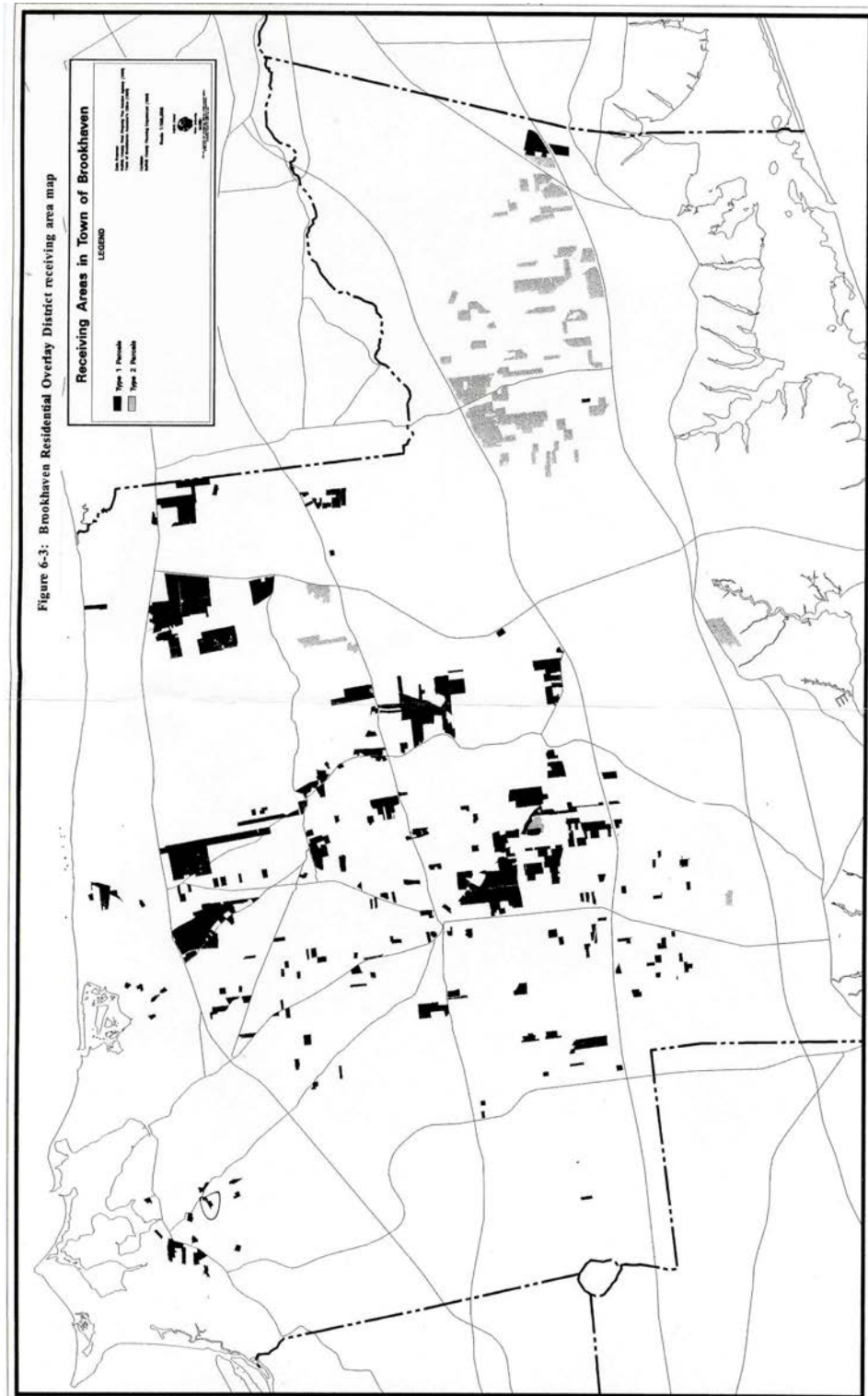


The Town of Brookhaven, in addition, requests that the Commission prioritize acquisition of Brookhaven residential parcels within the Core Preservation Area in those school districts which are most adversely impacted by the Plan.

#### **6.4.2.4.3 Brookhaven townwide policy**

It is the intent of the Town of Brookhaven to utilize transfers of development rights in a manner which will allow for the preservation of the Core Preservation Area without a significant negative environmental or economic impact on the rest of the Town.

**Figure 6-3: Brookhaven Residential Overlay District as of right receiving area map**



### **6.4.3 Town of Riverhead designated Pine Barrens Credit receiving districts**

The Town of Riverhead has identified receiving districts which are eligible to receive Pine Barrens Credits in an as of right manner from the Core Preservation Area, and in which increased intensity shall be allowed. These receiving districts are described in Figures 6-4 and 6-5.

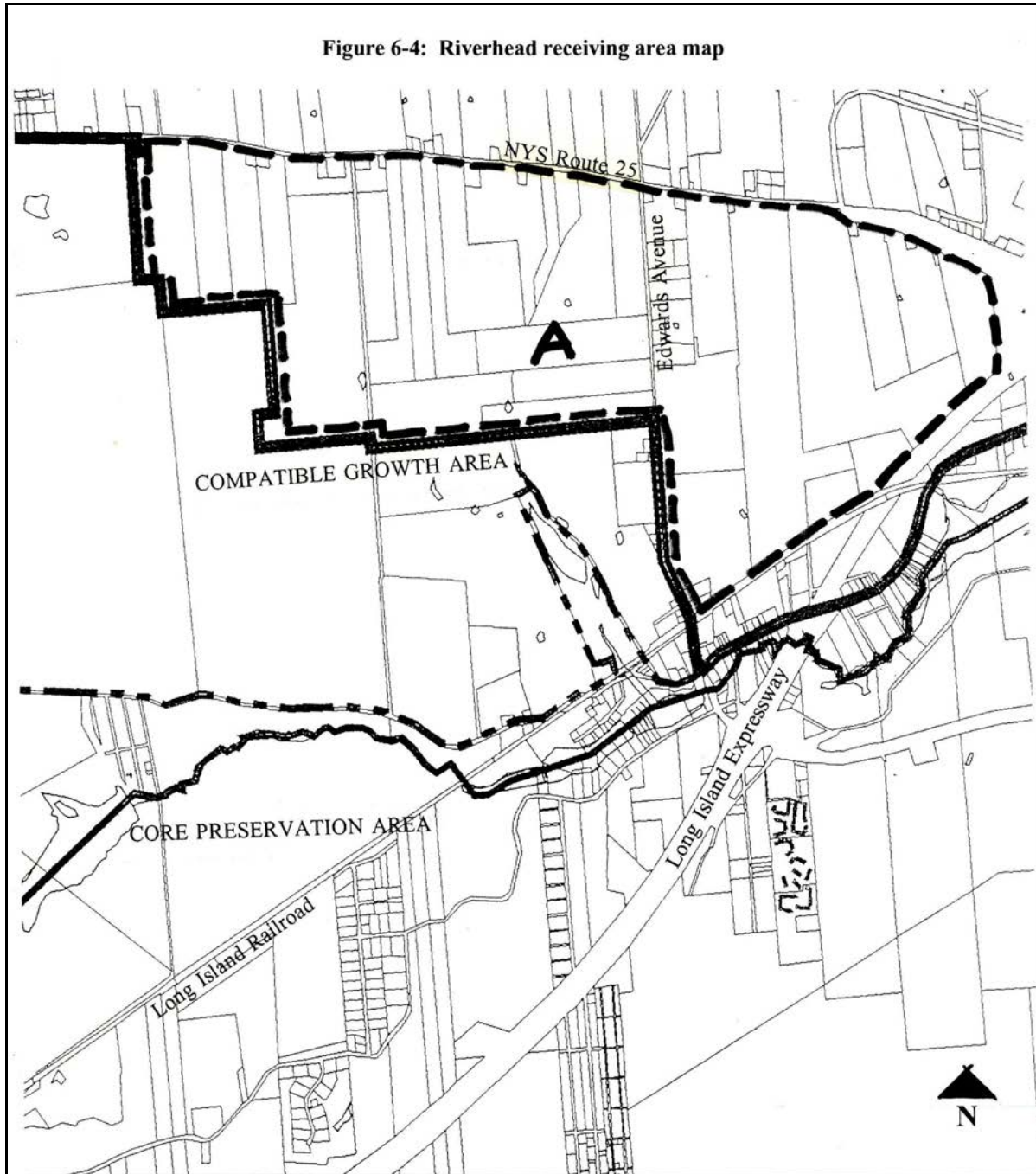
#### **6.4.3.1 Riverhead intensity increase**

A single Pine Barrens Credit shall permit an increase in intensity equal to three hundred (300) gallons per day per acre or the equivalent rated sewage flow as described in the Suffolk County Health Department Standards.

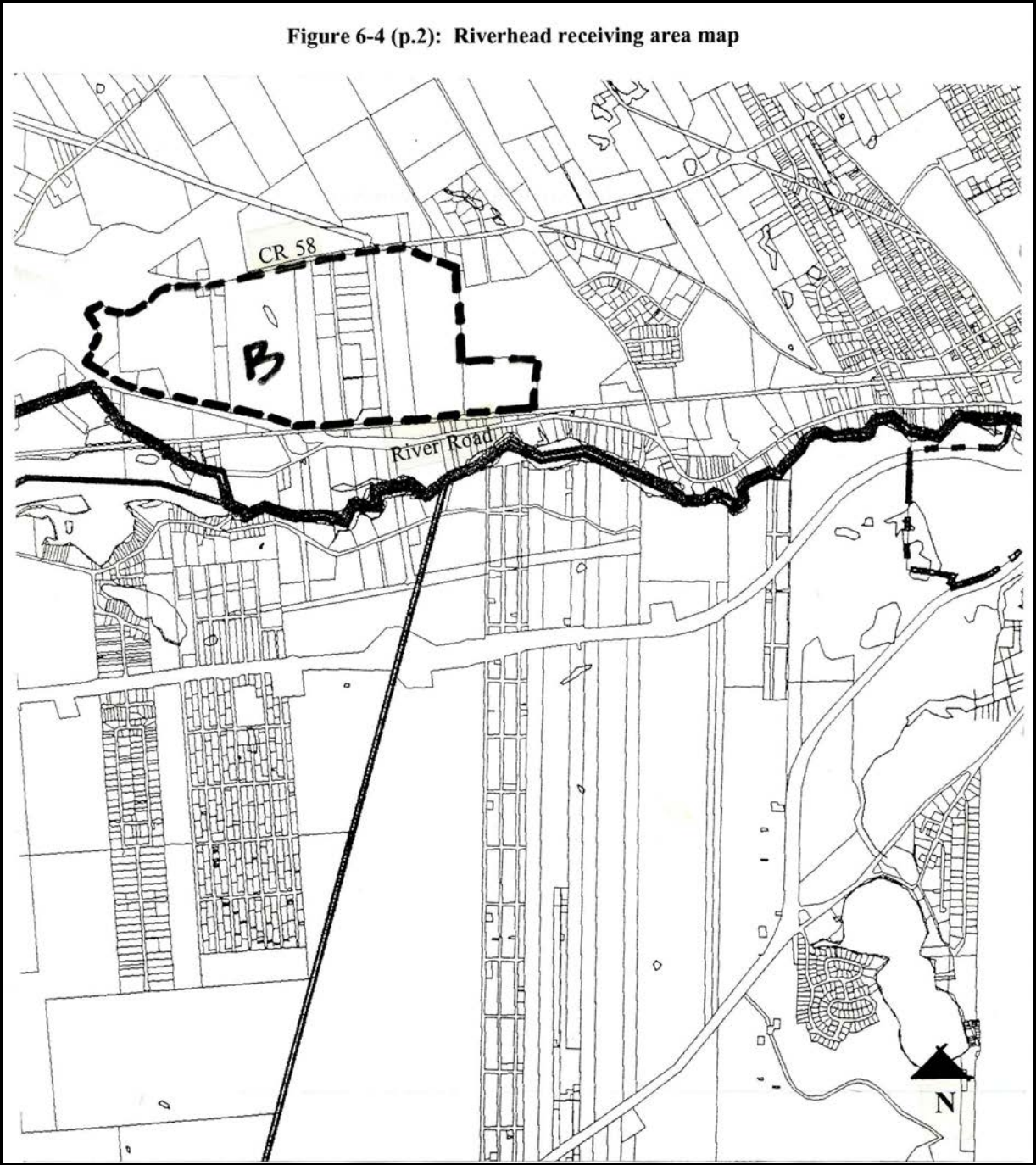
#### **6.4.3.2 Riverhead as of right policy**

The increased intensity shall be available as of right for those receiving districts identified in Figures 6-4 and 6-5.

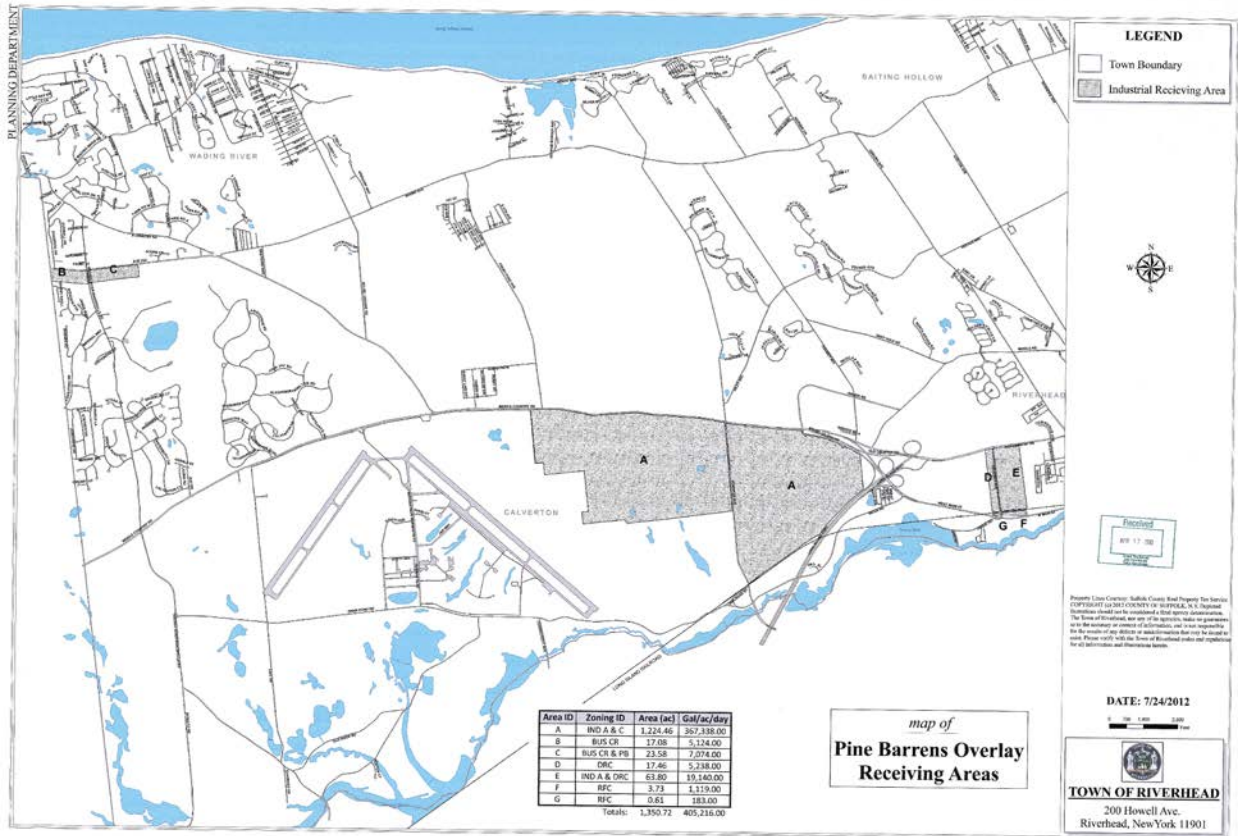
**Figure 6-4: Riverhead as of right receiving area map - Area "A" Calverton**



**Figure 6-4 (p.2): Riverhead as of right receiving area map - Area "B" West Main Street**



NEW FIGURE:  
Town of Riverhead Receiving Areas



**Figure 6-5: Riverhead receiving area parcels**

*(All parcels which are within the receiving areas are listed here, regardless of their current land use. All Riverhead parcels are within the same school district.)*

<b>Tax map number</b>	<b>Acreege</b>	<b>Tax map number</b>	<b>Acreege</b>
<b>Receiving Area "A": Calverton</b>			
0600-97-2-37	0.46	0600-117-1-3	41.98
0600-98-1-4	1.0	0600-117-1-4	22.73
0600-98-1-7	1.0	0600-117-1-5	41.43
0600-98-1-8	1.9	0600-117-1-6	24.16
0600-98-1-10	1.0	0600-117-1-8.4	30.18
0600-98-1-11	0.5	0600-117-2-2.3	3.9
0600-98-1-17	2.0	0600-117-2-2.5	9.5
0600-98-1-20	4.4	0600-117-2-2.6	2.0
0600-98-1-21	10.3	0600-117-2-3.1	4.49
0600-98-1-22	0.85	0600-117-2-3.2	3.0
0600-99-1-2.2	0.90	0600-117-2-4.1	8.0
0600-99-1-3	7.45	0600-117-2-5	0.78
0600-99-2-9	1.0	0600-117-2-6	1.0
0600-99-2-14.1	0.48	0600-117-2-7.2	4.9
0600-99-2-27	0.77	0600-117-2-8.2	52
0600-116-1-1	50.5	0600-117-2-9.1	37.53
0600-116-1-2	30.2	0600-117-2-11	116.30
0600-116-1-3.1	28.2	0600-117-2-12.3	121.91
0600-116-1-4	22.5	0600-117-2-13	14.37
0600-116-1-7.1	113.3	0600-117-2-14	0.62
0600-116-2-1.1	25.1	0600-118-1-1	0.49
0600-116-2-2	25.1	0600-118-1-2.1	31.84
0600-116-2-3	25.4	0600-118-1-2.2	32.76
0600-116-2-4	24.5	0600-118-1-3.1	27.86
0600-116-2-5	48.3	0600-118-1-4	0.33
0600-117-1-1.2	36.39	0600-118-1-13	0.73
0600-117-1-2	8.86		

**Figure 6-5 (p.2): Riverhead receiving area parcels**

*(All parcels which are within the receiving areas are listed here, regardless of their current land use. All Riverhead parcels are within the same school district.)*

<b>Tax map number</b>	<b>Acreege</b>	<b>Tax map number</b>	<b>Acreege</b>
<b><i>Receiving Area "B": West Main Street</i></b>			
0600-118-3-2.2	4	0600-119-1-35.5	2.4
0600-118-3-2.3	7.6	0600-119-1-36	1.6
0600-118-3-3	4	0600-119-1-37	16.7
0600-118-3-4	47.6	0600-119-1-38	58.2
0600-118-3-5.1	0.42	0600-119-1-40	3.6
0600-118-3-5.2	0.42	0600-119-2-1	0.5
0600-118-3-6	0.65	0600-119-2-2	0.1
0600-118-3-7	4	0600-119-2-4.1	1.7
0600-118-3-8	4.89	0600-119-2-5	0.4
0600-119-1-22.1	21	0600-119-2-7.1	3.6
0600-119-1-23	46.9	0600-119-2-8	0.2
0600-119-1-24	24.8	0600-119-2-10.1	0.4
0600-119-1-25	6.6	0600-119-2-11	0.3
0600-119-1-26.1	2.5	0600-119-2-12	0.6
0600-119-1-28.2	2.3	0600-119-2-13	0.5
0600-119-1-28.4	2.3	0600-119-2-14	0.3
0600-119-1-28.5	2.3	0600-119-2-15	0.1
0600-119-1-28.6	3.7	0600-119-2-16	0.6
0600-119-1-29	3.5	0600-119-2-17	0.4
0600-119-1-30	1.5	0600-119-2-18	0.4
0600-119-1-31.2	1.9	0600-137-1-7	2
0600-119-1-32.1	3.9	0600-137-1-8	1.6
0600-119-1-32.2	3	0600-137-1-32	51.4
0600-119-1-35.3	9.3	0600-137-2-10	12.1
0600-119-1-35.4	4		



**6.4.4 Town of Southampton designated Pine Barrens Credit receiving districts**

The Town of Southampton has identified receiving districts which are eligible to receive Pine Barrens Credits as of right from the Core Preservation Area and the Compatible Growth Area and in which increased density shall be allowed. These receiving districts are described in Figures 6-7 and 6-8.

**6.4.4.1 Overview of the Southampton Pine Barrens Credit Program** *(amended 5/16/12)*

The Pine Barrens Credit Program in Southampton is designed to redirect development from all residentially zoned lands within the Core Preservation Area and to preserve other key areas within the Compatible Growth Area.

Two primary approaches are to be used:

1. Redirection of development to other areas of the Town on an as of right basis through residential overlay districts, and
2. Use of innovative planning areas referred to as Planned Development Districts to creatively accommodate Pine Barrens Credits through a variety of development schemes. These approaches would convert Pine Barrens Credits to highly tax ratable uses such as resort and tourism, commercial and retail, senior housing and care centers, and medical centers.

The zoning and total acreage of residential lands which would be eligible for Pine Barrens Credit allocation are shown in Figure 6-6.

<b>Figure 6-6: Southampton zoning and Pine Barrens Credit illustration</b>						
<b>Statutory zone</b>	<b>R-20 acreage</b>	<b>R-40 acreage</b>	<b>CR-60 acreage</b>	<b>R-80 acreage</b>	<b>CR-120 acreage</b>	<b>CR-200 acreage</b>
Core Preservation Area	13	16	169	0	265	3367
Compatible Growth Area	48	0	10	42	221	1015
Totals	61	16	179	42	486	4382
<i>Note:</i> R-20 is a Residence District with a 20,000 square feet minimum lot size. CR-60 is a Country Residence District with a 60,000 square feet minimum lot size.						

Pine Barrens Credits would be allocated to owners of these lands using the method outlined in this chapter of this Plan. However, in the case of old filed map lots, allocation of Pine Barrens Credits does not include a yield factor, since these lots were platted with infrastructure allowances. This coincides with the Town's existing old filed map regulations and results in a slightly higher allocation of Pine Barrens Credits for these lots, as defined within Section 6.3.1.1 and Figure 6-1. Southampton Town old filed map parcels are defined in Southampton Town Code Section 330-53, and that definition is adopted in this Plan for purposes of the Pine Barrens Credit Program, including any amendments by the Town to this provision in the future.

Within the Core Preservation Area, it is vital to have as much of the Towns' industrially zoned land protected by acquisition as possible, due to the difficulty in allocating Pine Barrens Credits. The Town therefore requests the prioritization of these lands for acquisition through the present state and county programs, especially since many of these parcels fall within ecologically sensitive areas such as the dwarf pine plains. However, the Town does recognize that some owners of industrially zoned land may wish to sell or utilize Pine Barrens Credits for such development. In such cases, the Commission may exercise the right to allocate Pine Barrens Credits on a plan basis.

#### **6.4.4.2 As of right redemption of Southampton Pine Barrens Credits**

The primary strategy for the redirection of development from the Core Preservation Area is through Residential Overlay Districts. In these districts, a single Pine Barrens Credit shall allow an increase in density equal to one (1) dwelling unit, as defined by the Southampton Town Code. The end result is an incremental increase in density in selected residentially zoned areas of the Town.

This does not result in a net gain of dwelling units or population within the Town, but simply redirects development and channels growth in order to preserve more ecologically sensitive lands. The as of right receiving areas are designed to accommodate those Pine Barrens Credits from the Core Preservation Area within the same school district. In no case will it be necessary to cross school district boundaries on an as of right basis.

In Southampton, where most of the receiving areas are presently zoned one (1) unit per five acres, the creation of Residential Overlay Districts will allow the redemption of Pine Barrens Credits through an average of one (1) unit per acre. In certain school districts, in order to accommodate all Pine Barrens Credits, the Southampton Town Planning Board may need to require lot sizes less than one (1) unit per acre, though not lower than one (1) unit per one half (0.5) acre.

Where it was necessary to designate receiving sites within areas that are presently zoned one (1)

unit per acre, the establishment of densities higher than one (1) unit per one half (0.5) acre may be essential for full redemption of Pine Barrens Credits within that school district. For those sites, incorporation of a sewage treatment plant would be required by the Suffolk County Sanitary Code.

The net result of these Southampton Town policies is compact and efficient development that will protect Central Pine Barrens lands without significant public expenditure. The designation of receiving sites coincides with those areas where infrastructure and municipal services already exist. Thus, the cost to municipalities and taxpayers with regard to new road construction, water main extension and the provision of police, fire and other services is thereby lowered.

#### **6.4.4.3 Other strategies for the redemption of Southampton Pine Barrens Credits**

The redemption of Pine Barrens Credits through mechanisms other than as of right uses may be possible through the many strategies that were outlined in *The Comprehensive Plan Initiative for Groundwater and Pine Barrens Forest Preservation* (the Southampton "Western Generic Environmental Impact Statement" or WGEIS; 1993), and which continue to be outlined through the update of the Town Comprehensive Plan. An overview of possible strategies which will be given future consideration by the Town is listed below, along with the potential areas where such redemption may take place.

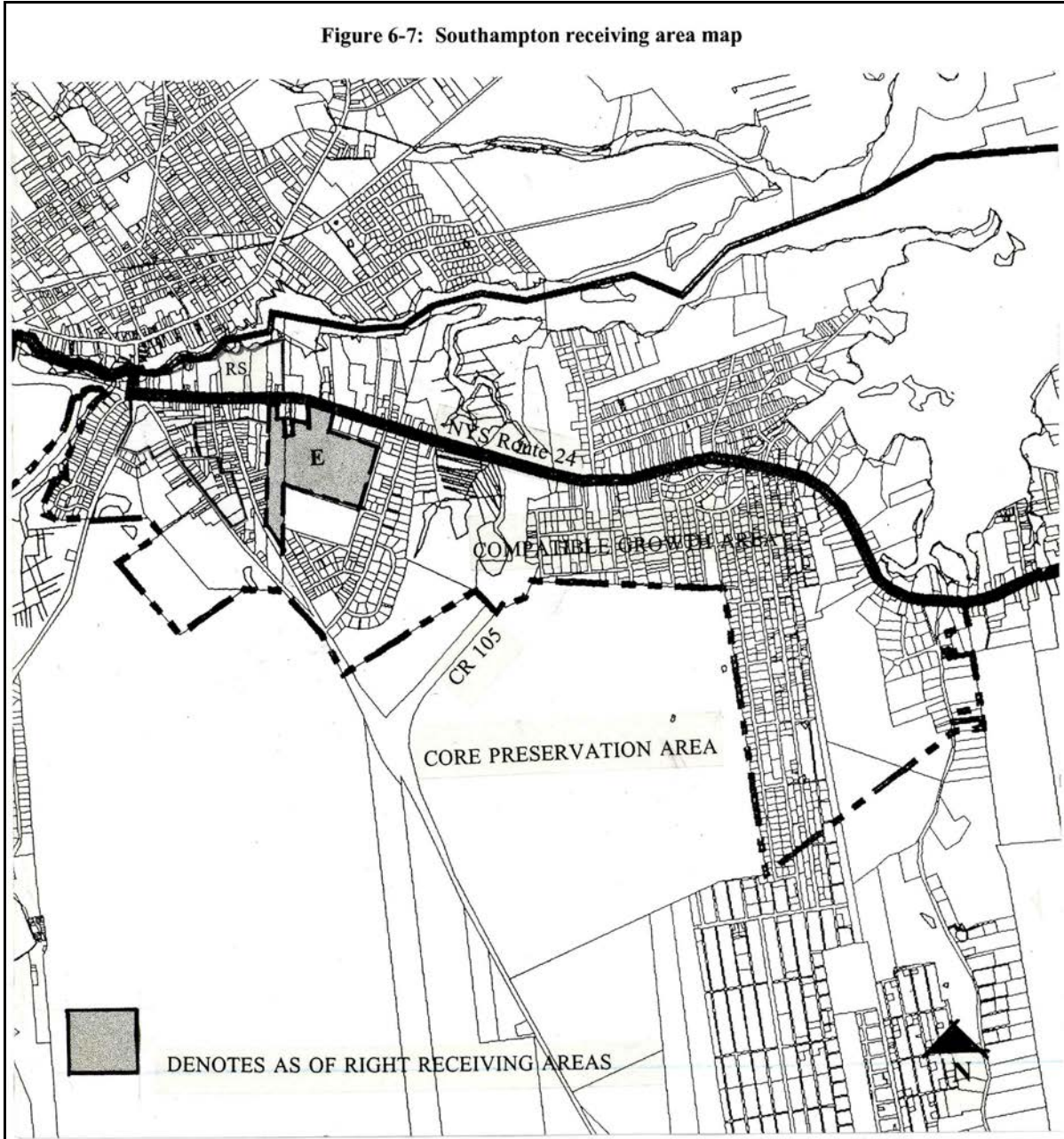
These areas would serve to provide more opportunities for future use of Pine Barrens Credits. Furthermore, the use of Planned Development Districts would allow for the conversion of residential development rights into commercial, industrial, tourism, or other uses. These would serve to limit the ultimate amount of residential dwelling units that could be built while still providing for a strong tax base.

The following potential strategies may be employed in the future by Southampton Town, as approved by the Town Board, for the redemption of Pine Barrens Credits. Geographical areas that may be suitable for such redemption mechanisms are also noted.

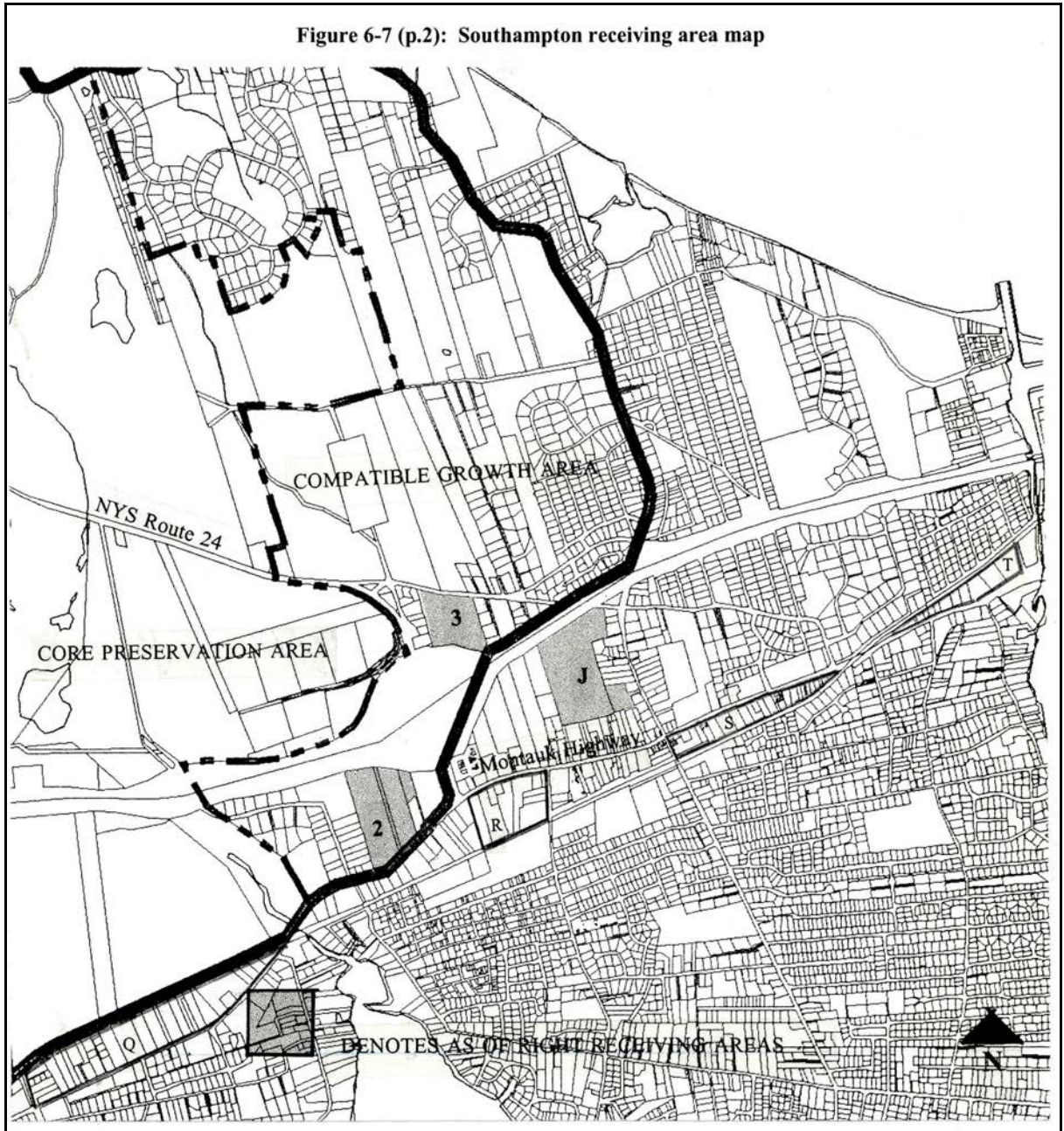
1. Use of Pine Barrens Credits could permit density increases for senior citizen housing and elder care facilities.
2. Overlay districts along the Montauk Highway and Long Island Railroad corridors could promote revitalization and concentrated development patterns within existing hamlet centers. Potential locations for such activity include, but are not limited to, areas L, R and S.
3. Use of Pine Barrens Credits could allow accessory apartments within existing residential zoning districts.
4. Mixed use overlay districts along existing commercial corridors could allow for alternative uses to counteract strip development. Locations that could be suitable for these receiving districts are Q, T, R and 2.

5. Appropriate industrial development areas have been identified at the Suffolk County airport for the redirection of Pine Barrens Credits from industrially zoned land located in the Core Preservation Area, and for the conversion of residential Pine Barrens Credits.
6. Use of Pine Barrens Credits could promote tourism uses and related facilities. Areas M, I, P, EQ, and RS are identified as suitable for this.
7. Use of Pine Barrens Credits could allow multifamily, or more compact, residential development. Sites that could accommodate this activity include K, J, 2, E, and the county's Bomarc site along Old Country Road in Westhampton.

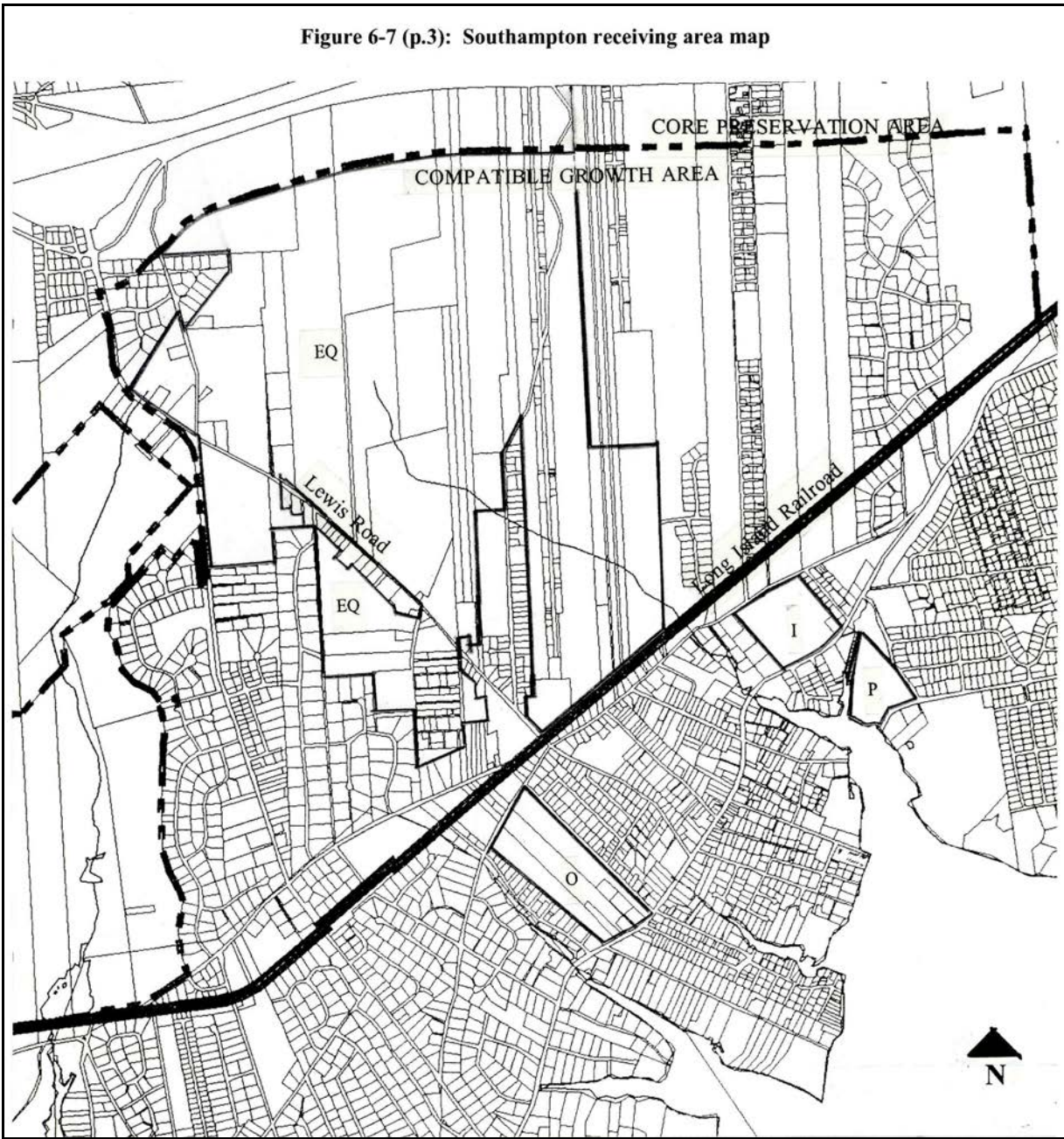
**Figure 6-7: Southampton as of right receiving area map**



**Figure 6-7 (p.2): Southampton as of right receiving area map**



**Figure 6-7 (p.3): Southampton as of right receiving area map**



**Figure 6-7 (p.4): Southampton as of right receiving area map**

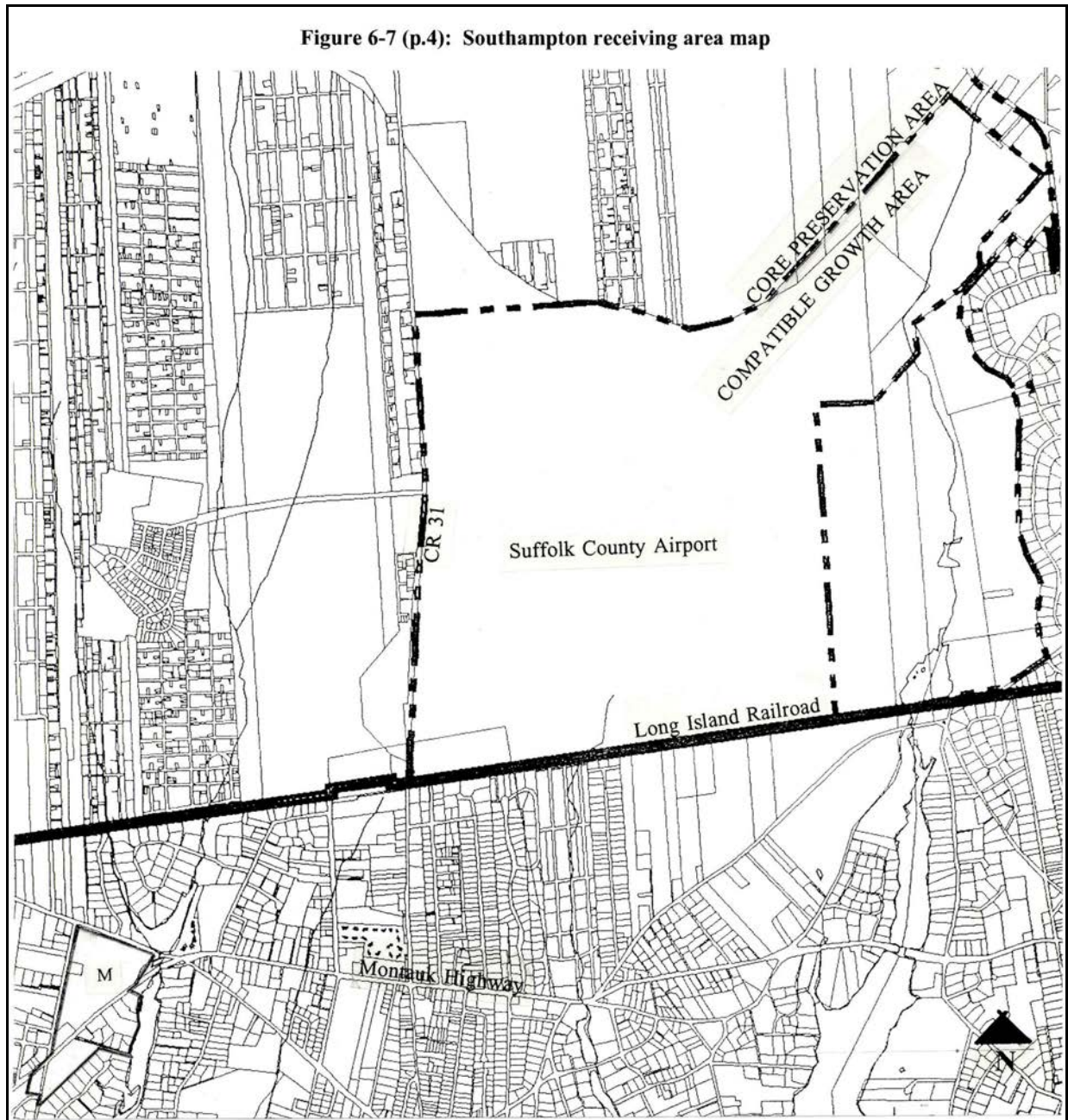
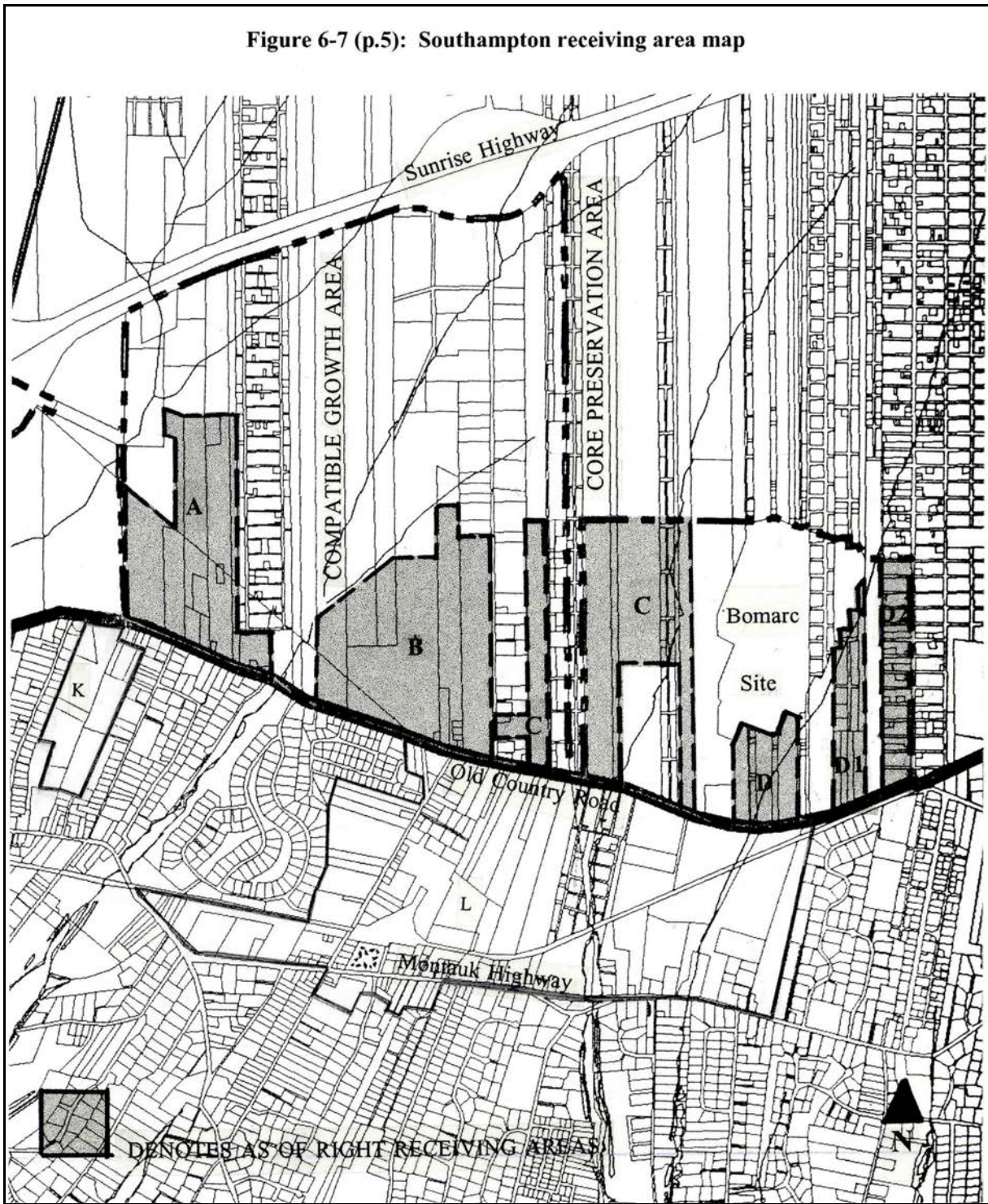




Figure 6-7 (p.5): Southampton as of right receiving area map



**Figure 6-8: Southampton receiving area parcels**

*(All parcels which are within the receiving areas are listed here, regardless of their current land use.)*

Receiving Area	Tax map number	Acreage	Receiving Area	Tax map number	Acreage
<b><i>Riverhead school district</i></b>					
E	900-139-3-10.2	12.5	E	900-141-1-9.2	35
<b><i>Hampton Bays school district</i></b>					
2	900-221-3-12.1	12.5	3	900-205-3-12.1	16.3
2	900-221-3-16.1	7.6	J	900-225-1-1	33.5
2	900-221-3-18	2.5	J	900-225-1-21	3.5
<b><i>Eastport school district</i></b>					
A	900-325-1-2.2	26.0	A	900-325-1-8.2	17.4
A	900-325-1-3.2	11.8	A	900-325-1-34.1	5.3
A	900-325-1-4.2	5.6	A	900-325-1-47.1	1.2
A	900-325-1-6.3	1.5	B	900-326-1-3.2	5.5
A	900-325-1-7.3	12.0	B	900-326-1-5.2	6.3
<b><i>Speonk-Remsenburg school district</i></b>					
A	900-325-1-3.1	6.0	B	900-326-1-p/o 5.1	55.5
A	900-325-1-4.1	15.7	B	900-326-1-p/o 6	22.9
A	900-325-1-p/o 7.2	16.4	B	900-326-1-10	36.7
A	900-325-1-p/o 8.1	5.6	B	900-326-1-p/o 17	7.8
A	900-325-1-43	2.3	C	900-276-3-p/o 1	36
B	900-326-1-p/o 3.1	8.8	C	900-327-1-p/o 6	28.9
B	900-326-1-p/o 4	8.4	C	900-328-1-4	3.3

**Figure 6-8 (p.2): Southampton receiving area parcels**

*(All parcels which are within the receiving areas are listed here, regardless of their current land use.)*

Receiving Area	Tax map number	Acreage	Receiving Area	Tax map number	Acreage
<b>Westhampton Beach school district</b>					
C	900-305-1-7 (ofm)	1.6	D2	900-331-3-1 (ofm)	1.93
C	900-329-1-1	1.49	D2	900-331-3-2 (ofm)	1.93
C	900-329-1-2	1.49	D2	900-331-3-5	1.84
C	900-329-1-3	1.49	D2	900-331-3-6 (ofm)	1.93
C	900-329-1-4	0.69	D2	900-331-3-7 (ofm)	0.96
C	900-329-1-6	0.57	D2	900-331-3-8 (ofm)	0.96
C	900-329-1-p/o 10	20.2	D2	900-331-3-9	1.33
D	900-330-2-11	8.2	D2	900-331-3-12 (ofm)	0.96
D	900-330-2-14.1	3.2	D2	900-331-3-14 (ofm)	0.64
D	900-330-2-16.2	10.5	D2	900-331-3-16 (ofm)	1.61
D1	900-331-2-4 (ofm)	1.26	D2	900-331-3-17	1.41
D1	900-331-2-7 (ofm)	2.30	D2	900-331-3-28 (ofm)	1.70
D1	900-331-2-8 (ofm)	1.12	D2	900-331-3-29 (ofm)	1.79
D1	900-331-2-9 (ofm)	1.49	D2	900-331-3-31 (ofm)	1.93
D1	900-332-2-1 (ofm)	1.15	D2	900-332-3-3 (ofm)	1.93
D1	900-332-2-2 (ofm)	0.92	D2	900-332-3-6 (ofm)	0.54
D1	900-332-2-3 (ofm)	0.92	D2	900-332-3-7 (ofm)	0.96
D1	900-332-2-4 (ofm)	1.72	D2	900-332-3-8 (ofm)	0.96
D1	900-332-2-5	3.20	D2	900-332-3-9 (ofm)	1.93
D1	900-332-2-6	2.5	D2	900-332-3-10 (ofm)	2.30
D1	900-332-2-7	2.5	D2	900-332-3-11 (ofm)	0.96
D1	900-332-2-10	5	D2	900-332-3-12 (ofm)	0.90
			D2	900-332-3-13 (ofm)	1.70
			D2	900-332-3-15 (ofm)	1.93

*Note:  
"ofm" indicates an "old filed map" parcel.*

#### **6.4.5 Suffolk County Sanitary Code**

The Suffolk County Health Department has ~~proposed amendments~~ amended to Article 6 of the Suffolk County Sanitary Code to permit the Department of Health to perform functions heretofore performed by the Board of Review. Insofar as it applies to the Central Pine Barrens, this amendment should be applied so as to facilitate implementation of each town's Pine Barrens Credit program in accordance with this Plan and should sunset no later than the date when the last Pine Barrens Credit allocated in that town is extinguished unless the Commission endorses an earlier sunset date during the five year Plan update as provided in 57-0121(13). Each town, in its Findings Statement, may designate a more restrictive standard, i.e., less than 600 gallons per day per acre.

### **6.5 Pine Barrens Credit use planning**

#### **6.5.1 Amendment of zoning and land use regulations**

In order for a town to comply with ECL Section 57-0123, it must amend its land use and zoning regulations to conform to this Plan within three (3) months of the Commission's adoption of this Plan. Such amendments shall include the final adoption by each town of a Planned Development District ordinance designed to accommodate Pine Barrens Credits. Each town shall propose a draft Planned Development District ordinance by June 30, 1995.

#### **6.5.2 Establishment of a receiving capacity plan by each town**

Each town shall, within three (3) months of the Commission's adoption of this Plan, submit a plan to the Commission demonstrating the manner in which each town will identify Pine Barrens Credit uses of sufficient quantity and quality within such town to accommodate at least two and one half (2.5) times the number of Pine Barrens Credits available for allocation within the town at that time.

##### **6.5.2.1 One to one receiving capacity to sending credit ratio requirement**

Each town shall include enough absorption capacity in receiving districts that meet the as of right definition set forth in Section 6.4 of this Plan so as to absorb all of the Pine Barrens Credits on a one to one (1:1) ratio that the Commission estimates it may allocate in that town pursuant to this Plan. The Commission recognizes that a change in zoning upon a town board's own motion that would decrease the receiving capacity so as to reduce this ratio below 1:1 would have an adverse effect on the Pine Barrens Credit program.

##### **6.5.2.2 Review by the Commission of the absorption capacity estimates**

Each town shall present to the Commission its best estimate of the number of Pine Barrens Credits that could be transferred to, and absorbed in, its as of right Residential Overlay Districts, Planned Development Districts, or other kinds of receiving districts, or through incentive zoning strategies with a supporting analysis. The Commission shall review, and then confirm or modify, such estimates based upon the best evidence available to it. In reviewing and approving this plan, the Commission shall consider each town's compliance with Section 6.5.2 of this Plan based upon such estimates.

### **6.5.3 Establishment of additional receiving districts**

In addition to the receiving districts identified above and the approaches identified by each town for adding additional receiving districts, each town may adopt additional receiving districts to accommodate Pine Barrens Credits as set forth below:

#### **6.5.3.1 Planned Development Districts**

The following policies shall apply to the use of Planned Development Districts for the redemption of Pine Barrens Credits.

##### **6.5.3.1.1 Designation of Planned Development Districts as receiving districts**

Each town may designate receiving districts that are Planned Development Districts (PDDs). Each PDD shall be mapped by the municipality, or otherwise designated by criteria that the town describes in its PDD regulations. Pine Barrens Credits may be redeemed for residential, commercial and other uses in PDDs. Each plan or scheme must include a redemption schedule, a table of densities or a change of use schedule, as appropriate.

##### **6.5.3.1.2 Requirements of the Suffolk County Sanitary Code**

Each PDD must conform to the requirements of the Suffolk County Sanitary Code.

##### **6.5.3.1.3 Regulations regarding the timing of development**

Each town may establish regulations regarding the timing of development within each PDD in order to minimize any adverse fiscal impacts on any taxing jurisdiction, except that any such phasing should not apply to any development allowed under existing zoning. To offset the impact of residential development, commercial and industrial development should occur first whenever possible.

##### **6.5.3.1.4 Inclusion of Planned Development District capacity within townwide Pine Barrens Credit absorption capacity estimate**

A town may include the absorption capacity of its Planned Development Districts as part of the plan that must be submitted to the Commission under section 6.5.2 above by estimating the number of Pine Barrens Credits that it reasonably expects may be absorbed in its PDDs. However, the estimate must be based upon a local PDD ordinance that shall have been fully adopted in final form within three (3) months of the Commission's adoption of this Plan.

### **6.5.3.2 Residential Overlay Districts**

The following policies shall apply to the use of Residential Overlay Districts for the redemption of Pine Barrens Credits.

#### **6.5.3.2.1 Designation of additional Residential Overlay Districts as receiving districts**

Each town may establish additional receiving districts that are residential overlay districts (RODs) within the town.

#### **6.5.3.2.2 Requirements for designation of additional Residential Overlay Districts**

Each ROD shall be mapped or otherwise designated based on objective geographic criteria.

#### **6.5.3.2.3 Criteria for restricting locations of Residential Overlay District density increases**

No ROD may include any land within the Core Preservation Area or any Critical Resource Area.

#### **6.5.3.2.4 Types of projects in which the Residential Overlay District increase applies**

The ROD yield would apply to subdivisions, land divisions, flag lot clusters, and mother and daughter units.

#### **6.5.3.2.5 Requirements of the Suffolk County Sanitary Code**

The ROD must conform to the requirements of the Suffolk County Sanitary Code.

#### **6.5.3.2.6 Prohibition of unreasonable school district burdens**

Redemption of Pine Barrens Credits in RODs may not produce an unreasonable burden on the receiving school district.

#### **6.5.3.2.7 Inclusion of the Residential Overlay Districts' capacity within the townwide Pine Barrens Credit absorption capacity estimate**

A town may include the absorption capacity of its RODs as part of the plan that must be

submitted to the Commission under Section 6.5.2.1 of this Plan only if the ROD meets the definition "as of right" set forth above.

### **6.5.3.3 Incentive Zoning districts**

The following policies shall apply to the use of Incentive Zoning Districts for the redemption of Pine Barrens Credits.

#### **6.5.3.3.1 Designation of receiving districts pursuant to incentive zoning or municipal home rule laws**

Each town may establish receiving districts pursuant to the incentive zoning provisions contained in New York Town Law Section 261-b or pursuant to New York Municipal Home Rule Law. Pine Barrens Credits may be redeemed for a change in land use, or an increase in intensity or density in such receiving districts.

#### **6.5.3.3.2 Requirements for incentive zoning or municipal home rule receiving districts**

For each incentive zoning district designated under Section 6.5.3 of this Plan, the town shall establish a redemption schedule, a table of densities or a change of use schedule, as appropriate. Pine Barrens Credits shall be redeemable in accordance with the specified incentive zoning for each receiving district designated. Upon application to the appropriate jurisdiction(s), additional Pine Barrens Credits may be used to exceed the incentive zoning of a receiving district with the redemption of these additional Pine Barrens Credits.

#### **6.5.3.3.3 Requirements of the Suffolk County Sanitary Code**

Each incentive zoning district must conform to the requirements of the Suffolk County Sanitary Code.

#### **6.5.3.3.4 Increases above incentive zoning**

As part of its incentive zoning ordinance, a town may provide that any additional increases over and above that provided by the incentive zoning schedule may be conditional upon the purchase of additional Pine Barrens Credits.

### **6.5.3.4 Additional Overlay Districts, Special Permit Uses or Special Exemption Uses**

Additional overlay districts, special permit uses, or special exemption uses may be adopted by the towns to accommodate Pine Barrens Credits.

## **6.5.4 Intermunicipal redemptions of Pine Barrens Credits**

Intermunicipal redemption of Pine Barrens Credits is defined as the redemption of Credits within a town or village within Suffolk County other than the one from which it was generated. Such intermunicipal redemptions may, in some instances, involve the redemption of Pine Barrens Credits in municipalities outside the Central Pine Barrens area. Intermunicipal redemptions include, but are not limited to, the redemption of Credits in satisfaction of the requirements of the Suffolk County Department of Health Services anywhere within that Department's jurisdiction.

It is the policy of the Commission to encourage intermunicipal redemptions of Pine Barrens Credits as long as the redemption is in conformance with the zoning of the receiving area. In all cases, however, the redeeming entity for intermunicipal Credit redemptions shall forward to the Commission office as soon as practicable following the redemption the original Credit Certificate with the reverse side of the Credit Certificate completed with the required redemption information.

### **6.5.5 Permanency of Pine Barrens Credit Redemptions**

Each and every redemption of any quantity of Pine Barrens Credits shall be permanent and irrevocable, and shall be permanently and irrevocably associated with a specific tract of real estate identified by its Suffolk County Real Property Tax Map parcel identifier(s). No Pine Barrens Credit redemption shall be in any manner considered or interpreted as being temporary, defined only for a discrete time period, or otherwise less than permanent. In the event that the Suffolk County Real Property Tax Map parcel identifier(s) for a redemption parcel(s) should change in the future, the Pine Barrens Credits redemption(s) on the original parcel shall continue to be permanently and irrevocably associated with the same tract of land encompassed by the original parcel identifier(s) despite the change(s) in the parcel(s) identification(s).

### **6.5.6 Redemption of Pine Barrens Credits within the Core Preservation Area prohibited**

Section 57-0121(6)(f) of the Act specifically states, in part, that the Plan shall provide for *"Identification of sending districts in core preservation and compatible growth areas and receiving districts in compatible growth areas and outside the Central Pine Barrens area for the purpose of providing for the transfer of development rights and values to further the preservation and development goals of the land use plan ..."*

In addition, the goals of the Plan as stated in the Act require that the Plan, with respect to the Core Preservation Area, shall be *"... designed to protect and preserve the ecologic and hydrologic functions of the Pine Barrens by ... prohibiting or redirecting new construction or development; ..."* (Section 57-0121(3)(c)) and, with respect to the Compatible Growth Area, shall be designed to *"... accommodate a portion of development redirected from the preservation area ..."* (Section 57-0212(4)(e)).

Consequently, redemption of Pine Barrens Credits on properties and parcels within the Core



Preservation Area by any entity shall be prohibited.

## **6.6 Establishment of the Pine Barrens Credit Clearinghouse and the Board of Advisors**

The Commission finds that in order to implement the Pine Barrens Credit Program, steps must be taken to promote the use and sale of the Pine Barrens Credits established under the program and that the best means of providing this assurance is through the establishment of a Pine Barrens Credit Clearinghouse that will purchase, sell, and track Pine Barrens Credits. The Commission further finds that it is appropriate to establish a board to perform the functions of a clearinghouse, subject to the provisions set forth below.

### **6.6.1 Structure and operation of the Board of Advisors**

The Pine Barrens Credit Clearinghouse, referred to as the "Clearinghouse", shall be governed by a Board of Advisors (the "Board") consisting of five (5) members. Each ex officio member of the Commission, and the Governor, shall each appoint one (1) member of the Board. The members of the Board shall serve without compensation. The Commission shall appoint one (1) of these five members as Chairperson of the Board and shall also appoint one (1) other member as a Vice-chair. Four (4) members of the Board shall constitute a quorum for the transaction of services or the exercise of any Board function. An affirmative vote of three (3) or more Board members shall be required to pass a resolution or exercise a function of the Board.

### **6.6.2 Authority of the Board of Advisors** *(amended 5/16/12)*

The Board shall have the authority:

- 6.6.2.1 To advise and make recommendations to the Commission as to the monetary value of Pine Barrens Credits to be purchased by the Clearinghouse.
- 6.6.2.2 To purchase Pine Barrens Credits from owners of eligible sending area parcels which have received Credits and from successive owners of Credits to further the objectives of the Pine Barrens Protection Act. *(amended 5/16/12)*
- 6.6.2.3 To sell, exchange or convey Pine Barrens Credits previously purchased by the Clearinghouse to entities willing to purchase such Pine Barrens Credits from the Clearinghouse, and to establish the monetary value of those Pine Barrens Credits which are sold by the Clearinghouse.
- 6.6.2.4 To adopt and, from time to time, amend and repeal suitable bylaws for the management of its affairs;
- 6.6.2.5 To apply for, receive, accept, and utilize, with the approval of the Commission, from any federal, state, or other public or private source, grants or loans for, or in aid of, the Board's authorized purposes;
- 6.6.2.6 To utilize funds allocated for Clearinghouse purposes and to implement appropriate fiscal and accounting practices;

- 6.6.2.7 To appoint such officers, employees and agents as the Board may require for the performance of its duties;
- 6.6.2.8 To call to its assistance, and to avail itself of the services of, employees of any state, county or municipal department, board, commission or agency as may be required and may be made available for these purposes;
- 6.6.2.9 To issue Letters of Interpretation (LOIs) to owners of eligible sending area parcels, and to establish appropriate administrative procedures for such issuance, including, but not limited to, defining what documentation is acceptable for LOI application information.  
*(amended 5/16/12)*

## **6.7 Pine Barrens Credit Certificates**

The following procedures shall apply to the issuance of Pine Barrens Credit Certificates by the Clearinghouse.

### **6.7.1 Issuance of Pine Barrens Credit Certificates by the Clearinghouse**

All Pine Barrens Credit Certificates shall be issued by the Clearinghouse.

### **6.7.2 Overview of the issuance procedure**

Issuance of a Pine Barrens Credit Certificate encompasses the following three steps:

1. A property owner obtains a Letter of Interpretation from the Clearinghouse stating the number of Pine Barrens Credits allocated to the parcel of land.
2. The property owner applies to the Clearinghouse for a Pine Barrens Credit Certificate by submitting a valid Letter of Interpretation, a standard title report, and other necessary documents as determined by the Clearinghouse.
3. A Pine Barrens Credit Certificate is issued when the Clearinghouse receives proof of filing and recording of the conservation easement from the title insurance company.

### **6.7.3 Detail of Step 1: Obtaining a Letter of Interpretation**

The Clearinghouse will utilize a current survey made in the last ten (10) years, if such a survey is available and provided, to establish the acreage figure to be utilized in the formula determining Credit allocation. If such a survey is available, the survey's acreage figure shall be used, regardless of the acreage shown on the tax bills. If such a survey is unavailable, the acreage figure will be obtained from the publicly available tax bill information.

- 6.7.3.1 A property owner requests a Letter of Interpretation on a form to be supplied by the Clearinghouse.

- 6.7.3.2 The Clearinghouse staff may conduct an analysis of the property and will allocate Pine Barrens Credits based upon the allocation formula and any unique features of a particular parcel of land. The Clearinghouse staff mails the Letter of Interpretation to the property owner.
- 6.7.3.3 The property owner has thirty (30) days from the date of the Letter of Interpretation to appeal the allocation to the Commission in writing. Extensions of this deadline for filing an appeal may be granted at the Commission's discretion upon written request of the property owner. *(amended 5/16/12)*
- 6.7.3.4 The Commission shall consider the written appeal request within a timeframe of sixty (60) days or by the end of two consecutive regularly scheduled Commission meetings, whichever date comes first after the ~~of~~ receipt of an appeal, and may shall schedule and hold a hearing within that period of time. The appellant shall be given an opportunity to present arguments and relevant material at the hearing.
- 6.7.3.5 After the appeal hearing, the ~~The~~ Commission shall decide the appeal within a timeframe of sixty (60) days or by the end of two consecutive regularly scheduled Commission meetings, whichever date comes first, ~~receipt of the appeal the appeal hearing,~~ and may seek the advice of the Clearinghouse Board. The Commission may confirm, increase, or decrease the allocation to be received from the Clearinghouse. A new Letter of Interpretation containing the Commission's final allocation(s) to the subject parcel(s) will be issued following such a decision.

#### **6.7.4 Detail of Step 2: Applying for a Pine Barrens Credit Certificate** *(amended 5/16/12)*

- 6.7.4.1 After receiving a Letter of Interpretation, a property owner may request a Pine Barrens Credit Certificate from the Clearinghouse by submitting:
1. The Letter of Interpretation, and
  2. A title report, and
  3. A completed Pine Barrens Credit Certificate Application Form, which shall be supplied by the Clearinghouse. *(amended 5/16/12)*
- 6.7.4.2 If the title report indicates that the applicant does not have marketable title, that the applicant is not qualified to encumber the property with a conservation easement, or that there are liens on the property, a Pine Barrens Credit Certificate may not be issued until these matters are resolved by the applicant.
- 6.7.4.3 The Clearinghouse will provide to the applicant a conservation easement to sign once ~~clear~~ accepted title has been established to the satisfaction of the Clearinghouse. *(amended 5/16/12)*
- 6.7.4.4 The Commission will issue, and update as necessary, a policy on titles and title insurance for use by the Clearinghouse. *(amended 5/16/12)*

#### **6.7.5 Detail of Step 3: Recording a conservation easement and obtaining a Pine Barrens Credit Certificate**

- 6.7.5.1 The conservation easement may not be recorded until all title issues are resolved and Clearinghouse staff has approved the conservation easement as to its form.
- 6.7.5.2 The Clearinghouse will issue a preliminary approval concerning the title report and the proposed conservation easement.
- 6.7.5.3 The conservation easement will then be recorded with the Suffolk County Clerk, and a copy of it submitted along with proof of its recording, to the Clearinghouse. The title report must be updated to ensure that there has been no conveyance of the property since the report was received and that no liens have been placed upon the property. *(amended 5/16/12)*
- 6.7.5.4 The Clearinghouse will then issue a Pine Barrens Credit Certificate certifying that the holder of the Certificate is entitled to a specified number of Pine Barrens Credits.

## **6.7.6 Other provisions relating to the issuance of Pine Barrens Credit Certificates**

### **6.7.6.1 Expiration of the Letters of Interpretation** *(amended 5/16/12)*

A Letter of Interpretation shall expire three(3) years following its issuance. A property owner is not required to apply for a Pine Barrens Credit Certificate upon receipt of a Letter of Interpretation. However, if such application is not made within three(3) years, the Letter of Interpretation will expire and the property owner will be required to reapply for a new Letter of Interpretation. *(amended 5/16/12)*

### **6.7.6.2 Delayed issuance of a Pine Barrens Credit Certificate**

After receipt of a Letter of Interpretation, a property owner may seek to negotiate the sale of the Pine Barrens Credits described in the letter, and delay obtaining the Pine Barrens Credit Certificate until after reaching an agreement with a prospective buyer of the Pine Barrens Credits.

### **6.7.6.3 Notification of the Clearinghouse of Pine Barrens Credit usage** *(amended 5/16/12)*

A Pine Barrens Credit Certificate shall state that the recipient of the certificate and any party purchasing the Pine Barrens Credits described in the certificate must notify the Clearinghouse of any transaction involving the sale of the Pine Barrens Credits or utilization of the Pine Barrens Credits as security for a loan. The original Certificate must be sent to the Clearinghouse when all or any portion of the Credits associated with that Certificate are conveyed, transferred, or sold prior to redemption. The Clearinghouse shall then issue one or more new Certificate(s), as appropriate, in the name(s) of the new Credit owner(s). *(amended 5/16/12)*

### **6.7.6.4 Tax status of the subject property**

No Pine Barrens Credit Certificates shall be issued for any parcel of land until all real property taxes and ad valorem levies have been paid in full as certified by the town's tax receiver.

#### **6.7.6.5 Liability for real property taxes on subject property**

If a transferor of Pine Barrens Credits owns Pine Barrens Credits on the tax status date under the Suffolk County Tax Act, and such Pine Barrens Credits are transferred subsequent to the tax status date, the transferor shall be liable for all real property taxes on such property from the tax status date until the date of transfer of the Pine Barrens Credits.

#### **6.7.6.6 Issuance of a full Pine Barrens Credit for certain roadfront parcels** *(amended 5/16/12)*

The Pine Barrens Credit Clearinghouse may elect to allocate one (1) full Pine Barrens Credit for a parcel of land consisting of at least 4,000 square feet with frontage on an existing public improved road. Parcel frontage on the main lines (as opposed to any improved service roads) of Sunrise Highway (NY State Route 27), the Long Island Expressway (Interstate 495), and similarly limited access highways shall not qualify a parcel for this provision. Therefore, such parcel will not be eligible to receive one (1) full Pine Barrens Credit but will instead receive an allocation pursuant to Section 6.3.1.

#### **6.7.6.7 Minimum Pine Barrens Credit allocation** *(amended 5/16/12)*

No fewer than 0.10 (one tenth) Pine Barrens Credit shall be allocated by the Clearinghouse or the Commission for any parcel of land which is eligible for a Credit allocation, regardless of its size or road accessibility.

#### **6.7.6.8 Issuance of Pine Barrens Credits to a Parcel with a Land Use Violation**

No Pine Barrens Credits shall be issued for any property where land use conduct has occurred or is occurring that violates the Act, this Plan, any regulation promulgated by the Commission, or any order, determination or permit condition issued by the Commission.

#### **6.7.6.9 Transactions involving Pine Barrens Credits**

Pine Barrens Credits that are involved in any transaction, whether it involves the selling, buying, redeeming or conveying of Pine Barrens Credits, must be rounded up to the nearest one hundredth (1/100 = 0.01) of a Pine Barrens Credit and the final sum of all Credits involved in the transaction shall not exceed the total Credit value of the original Credit Certificate(s) involved in the transaction.

### **6.8 Registry, Reports, and Other Publicly Accessible Information for Pine Barrens Credits** *(amended 5/16/12)*

#### **6.8.1 Establishment and maintenance of the Pine Barrens Credit Registry** *(amended 5/16/12)*

The Board shall establish and maintain a registry of Pine Barrens Credits and a publicly available set of reports, which shall include, at a minimum, the following information:

1. The name, property, contact, and address of every owner to whom a Pine Barrens Credit certificate is issued pursuant to the Plan, the date of its issuance, the tax district, section, block and lot identification of the parcel of land to which the Pine Barrens Credit has been assigned, the number of Pine Barrens Credits or fraction thereof assigned to each parcel, the total number of Pine Barrens Credits assigned, and the total acreage to which Pine Barrens Credits have been assigned, and
2. The name and address of every person to whom a Pine Barrens Credit is sold or otherwise conveyed, the date of the conveyance, and the consideration, if any, received therefore, and
3. The name and address of any person who pledged a Pine Barrens Credit as security on any loan or other obligation, and the name and address of the lender, and
4. The name and address of any person who has sold or otherwise transferred a Pine Barrens Credit, the purchaser(s) to whom the Pine Barrens Credit was transferred, and the date of the sale; and
5. A record of every redemption of a Pine Barrens Credit including, at a minimum, the person(s) redeeming the Credit(s), the tax district, section, block and lot identification of the parcel(s) of land on which the Credits have been redeemed, the school district(s) from which and to which the transfer occurred, the redeeming agency, and the date of redemption; and
6. The total number of Pine Barrens Credits purchased and transferred. This report shall list the municipality and school district of each tract of land for which Pine Barrens Credits were issued and the municipality and school district to which the Pine Barrens Credits were transferred.

### **6.8.2 Notification of the Board of certain actions involving Pine Barrens Credits**

No person shall purchase or otherwise acquire, encumber, or sell any Pine Barrens Credit without notifying the Board in writing within ten business days thereof.

### **6.8.3 Distribution of the annual report** *(amended 5/16/12)*

The Board shall make available an annual report of the Pine Barrens Credit Program and the activities of the Board as part of the Commission's annual report required under ECL Article 57.

## **6.9 Municipal functions exclusive of state financial assistance**

Nothing in this section shall be construed to prohibit, or in any other way interfere with, the carrying out by any municipality of functions substantially similar to those described and

authorized in this Chapter of this Plan.

#### **6.10 Other development rights transfer programs**

Nothing herein shall serve to limit, affect or prohibit the establishment or continuance of any other municipal program for transferring or redirecting development rights.