



COUNTY CLERK'S OFFICE
STATE OF NEW YORK
COUNTY OF SUFFOLK

I, JUDITH A. PASCALE, Clerk of the County of Suffolk and the Court of Record thereof do hereby certify that I have compared the annexed with the original **EASEMENT**

recorded in my office on **05/09/2022** under Liber **D00013155** and Page **185** and, that the same is a true copy thereof, and of the whole of such original.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said County and Court this **05/09/2022**

SUFFOLK COUNTY CLERK

Judith A. Pascale

JUDITH A. PASCALE

SEAL



**SUFFOLK COUNTY CLERK
RECORDS OFFICE
RECORDING PAGE**

Type of Instrument: EASEMENT

Recorded: 05/09/2022

Number of Pages: 35

At: 12:04:14 PM

Receipt Number : 22-0079285

TRANSFER TAX NUMBER: 21-33908

LIBER: D00013155

District:
0200

Section:
554.00

Block:
03.00

Lot:
004.041

EXAMINED AND CHARGED AS FOLLOWS

Deed Amount: \$0.00

Received the Following Fees For Above Instrument

Exempt

Page/Filing	\$175.00	NO	Handling	\$20.00	Exempt
COE	\$5.00	NO	NYS SRCHG	\$15.00	NO
TP-584	\$5.00	NO	Notation	\$0.00	NO
Cert.Copies	\$80.00	NO	RPT	\$600.00	NO
Transfer tax	\$0.00	NO			
			Fees Paid	\$900.00	

TRANSFER TAX NUMBER: 21-33908

THIS PAGE IS A PART OF THE INSTRUMENT

THIS IS NOT A BILL

JUDITH A. PASCALE
County Clerk, Suffolk County

35

Number of pages

This document will be public record. Please remove all Social Security Numbers prior to recording.

RECORDED
2022 May 09 12:04:14 PM
JUDITH A. PASCALE
CLERK OF
SUFFOLK COUNTY
L D00013155
P.185
DT# 21-33908

Deed / Mortgage Instrument	Deed / Mortgage Tax Stamp	Recording / Filing Stamps
3	FEES	

Page / Filing Fee	175-	Mortgage Amt.
Handling	20. 00	1. Basic Tax
TP-584	5	2. Additional Tax
Notation		Sub Total
EA-52 17 (County)		Spec./Assit.
EA-5217 (State)		or
R.P.T.S.A. + ²	600	Spec. /Add.
Comm. of Ed.	5. 00	TOT. MTG. TAX
Affidavit	80-	Dual Town _____ Dual County _____ Held for Appointment _____
Certified Copy ^{1/2}		Transfer Tax _____
NYS Surcharge	15. 00	Mansion Tax _____
Other		The property covered by this mortgage is or will be improved by a one or two family dwelling only.
		YES _____ or NO _____
		If NO, see appropriate tax clause on page # _____ of this instrument.



4	Dist.	4864530	See Attached
		P T S R RAK A 09-MAY-22	

6	Satisfactions/Discharges/Releases List Property Owners Mailing Address RECORD & RETURN TO: Certilman Balin Adler & Hyman, LLP Attn: J. Timothy Shea, Jr. 100 Motor Parkway, Suite 560 Hauppauge, New York 11788
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Mail to: Judith A. Pascale, Suffolk County Clerk 310 Center Drive, Riverhead, NY 11901 www.suffolkcountyny.gov/clerk	7	Title Company Information
		Co. Name _____ Title # _____

8 Suffolk County Recording & Endorsement Page

This page forms part of the attached Conservation Easement made
by:

AVR-SP Brookhaven JV LLC

The premises herein is situated in
SUFFOLK COUNTY, NEW YORK.

TO
Central Pine Barrens Joint Planning and Policy Commission

In the TOWN of Brookhaven
In the VILLAGE
or HAMLET of Yaphank

BOXES 6 THRU 8 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING.

(over)

Stat ID: 4864530

PTS
R RAK A
09-MAY-22

Tax Maps

istrict	Secton	Block	Lot	School District
0200	55400	0300	004041	
0200	55400	0300	004045	
0200	55400	0300	004046	

CONSERVATION EASEMENT

THIS INDENTURE, made this 6 day of May, 2022.

W I T N E S S E T H:

WHEREAS, AVR-SP Brookhaven JV LLC ("AVR-SP"), having its principal address at One Executive Boulevard, Yonkers, New York 10701, owns 47.26 acres of real property located in the Hamlet of Yaphank, Town of Brookhaven, County of Suffolk and State of New York as more particularly described on Exhibit "A" annexed hereto and made a part hereof (the "Overall Property"); and

WHEREAS, the Central Pine Barrens Joint Planning and Policy Commission (the "Commission"), having offices at 624 Old Riverhead Road, Westhampton Beach, New York 11978, was created pursuant to the Long Island Pine Barrens Protection Act of 1993, codified in New York State Environmental Conservation Law Article 57 ("Article 57"); and

WHEREAS, the Overall Property is located within the Central Pine Barrens area, as bounded and described in Article 57 (the "Central Pine Barrens"); and

WHEREAS, the Commission adopted the Central Pine Barrens Comprehensive Land Use Plan (the "Plan") pursuant to Article 57 and has jurisdiction over certain activities within the Central Pine Barrens; and

WHEREAS, AVR-SP, pursuant to Article 57 and the Plan, applied to the Commission for a review of its proposal to develop an industrial site plan on the Overall Property under the Town of Brookhaven's L Industrial 1 District zoning ordinance (the "Proposed Action"), as the Proposed Action is considered a development of regional significance; and

WHEREAS, the Commission, on February 3, 2022, adopted a Statement of Findings and a final Resolution (the "Findings and Resolution") annexed hereto as Exhibit "B" and made a part hereof, which approved the Proposed Action and required AVR-SP to undertake certain activities on the Overall Property; and

WHEREAS, the Findings and Resolution contained certain terms and conditions which required AVR-SP grant to the Commission a Conservation Easement to protect, as natural space, no less than 16.82 acres of the Overall Property; and

WHEREAS, AVR-SP offered to protect as natural space 16.82 acres as identified on a Site Plan (Sheet C-002) entitled "Showing Clearing Limits from 12/9/21" as prepared by Vollmuth & Brush, Environmental Engineering & Land Surveying, dated December 23, 2021, also a part of the Overall Property; and

WHEREAS, AVR-SP wishes to grant to the Commission this Conservation Easement for five (5) portions of the Existing Natural Area, which are identified as Conservation Easement A, containing 10.13 acres, Conservation Easement B, containing 5.69 acres, Conservation Easement C, containing 1.22 acres, Conservation Easement D-1, containing 0.07

acres, Conservation Easement D-2, containing 0.08 acres, which areas are more particularly identified and described in Exhibit "C" attached hereto and made a part hereof (the "Protected Property"), pursuant to Article 49, Title 3 of the Environmental Conservation Law (the "ECL"), or its similar successor statute. This Conservation Easement is intended to comply with the ECL, as may be amended from time to time; and

NOW, THEREFORE, AVR-SP, for and in consideration of the facts above and hereinafter recited including, but not limited to, the Findings and Resolution and the mutual covenants, terms, conditions, and restrictions hereinafter contained, does hereby grant, transfer, bargain, sell and convey unto the Commission, its successors and assigns forever this Conservation Easement in gross in perpetuity over the Protected Property consisting of:

1. The right of visual access to and view of the Protected Property in its natural, scenic and open condition.

2. AVR-SP'S forbearance from taking any of those actions constituting development pursuant to Article 57, and forbearance from operations or uses that do not constitute development pursuant to Article 57 unless such operations or uses are otherwise expressly reserved herein.

3. (a) The right of the Commission, its respective agents, employees or other representatives, to enforce this Conservation Easement in an action at law or in equity or both;

(b) The right of the State of New York, the County of Suffolk, the Town of Brookhaven or their respective agents, employees or other representatives, a third-party enforcement right, to enforce this Conservation Easement in an action at law or in equity or both.

Enforcement pursuant to (a) and (b) herein above shall not be defeated because of any subsequent adverse possession, laches, estoppels or waiver. The Commission or any party with a third-party enforcement right or their respective agents, employees or other representatives shall be permitted access, and if necessary, to cross other lands retained by AVR-SP, and to enter upon the Protected Property for the purpose of inspection in order to enforce and assure compliance with the terms and conditions herein contained. The Commission, its agents, employees or other representatives, agree to give AVR-SP reasonable advance notice of its intention to enter and inspect the Protected Property and such entrance and inspections shall be in a reasonable manner and at reasonable times unless an emergency condition exists on the Protected Property requiring immediate inspection when such notice requirement shall be waived.

Covenants

AVR-SP makes the following covenants on the Protected Property subject to this Conservation Easement on behalf of itself, its successors, heirs and assigns, lessees, personal representatives and other successors-in-interest, which covenants shall run with and bind the Protected Property in perpetuity:

1. No structures of any kind or description shall be constructed, erected, maintained or moved onto or within the Protected Property;
2. No topsoil shall be removed from the Protected Property, nor shall sand, gravel, peat or other minerals be placed thereon or removed therefrom for any purpose, and the natural contours and subsurface conditions of the Protected Property shall remain generally undisturbed;
3. The Protected Property shall remain in its natural state;
4. There shall be no construction activity, alteration of vegetation or changes in topography, no development as defined by Article 57 and no operations or uses not constituting development pursuant to Article 57 in the Protected Property; and
5. There shall be no storing, dumping, discharging or placing of any substance in or on the Protected Property in contravention of any applicable federal, state or local law or ordinance.

Reserved Rights

Notwithstanding any of the foregoing provisions to the contrary and as expressly limited herein, AVR-SP reserves the following rights:

1. The right of exclusive possession of the Protected Property; and
2. The right to use the Protected Property consistent with the terms of the Findings, the Resolution and this Conservation Easement; and
3. The right to sell, bargain, gift or otherwise convey the Protected Property, or any portion or portions thereof, subject to the terms of this Conservation Easement. AVR-SP, upon the sale, gift or other conveyance of its fee interest in the Protected Property, shall have no further obligations or liabilities under this Conservation Easement. AVR-SP shall promptly notify the Commission of a conveyance of interest in the Protected Property, including the full names and mailing addresses of all grantees, and the individual principals thereof, under any such conveyance. The instrument of such conveyance shall specifically set forth that the interest thereby conveyed is subject to this Conservation Easement, without modification or amendment thereof, and shall incorporate this Conservation Easement by reference. The failure of any such instrument to comply with the provisions hereof shall not affect the Commission's rights hereunder; and
4. The right to use the Protected Property for environmental restoration activities upon the prior written approval of the Commission and applicable Federal, State, and local agencies with jurisdiction of the proposed activity. Absent a required

approval, Grantor or its successors or assigns may not undertake the proposed restoration activity.

Notwithstanding the foregoing, on January 19, 2022, the Commission reviewed the activities described in Exhibit D. Pursuant to the Commission's resolution attached hereto as Exhibit E, the described activities are environmental restoration activities and may be undertaken by Grantor and its assigns without further Commission review.

Rights of the Public

1. Nothing contained in this Conservation Easement shall give or grant to the public a right to enter upon or use the Protected Property or any portion thereof. The Protected Property shall not be open or available to the public for general or park use by reason of this Conservation Easement, but instead shall remain at all times in AVR-SP exclusive possession and subject to AVR-SP's unqualified right to exclude all others therefrom by any and all lawful means, except as specifically set forth herein.
2. All rights, interest and privileges of AVR-SP in the Protected Property not specifically granted to the Commission herein shall remain and reside in AVR-SP.

Miscellaneous

1. The parties hereto understand and agree that all terms and provisions of ECL Article 49, Title 3, as may be amended from time to time, shall govern this Conservation Easement.
2. This Conservation Easement embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations, and statements, oral or written, are merged into this Conservation Easement. Neither this Conservation Easement nor any provisions hereof may be waived, modified, amended, discharged, or terminated except by an instrument signed by the parties hereto and then only to the extent set forth in such instrument.
3. In the event any portion of this Conservation Easement shall be declared by any court of competent jurisdiction to be invalid, illegal, or unenforceable, such portion shall be deemed severed from this Conservation Easement and the remaining parts hereof shall remain in full force and effect, as fully as though such invalid, illegal or unenforceable portion had never been part of this Conservation Easement.
4. The parties acknowledge that each party and its counsel has participated in the drafting of this Conservation Easement and the parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the

drafting party shall not be employed in the interpretation of this Conservation Easement.

5. This Conservation Easement may be modified only in writing signed by both AVR-SP and the Commission, or their successors, heirs, representatives or assigns. AVR-SP and the Commission acknowledge and agree that circumstances could arise which would justify the modification of certain terms and conditions contained herein. Therefore, the Commission and AVR-SP shall mutually have the right, in their sole discretion, to agree to amendments to this Conservation Easement, which amendments shall not be inconsistent with the basic purpose of this Conservation Easement, provided, however, that the Commission shall have no right or power to agree to any amendment hereto that would result in this Conservation Easement failing to qualify as a valid conservation easement under the ECL, Article 49, Title 3 as the same may be hereafter amended.
6. This Conservation Easement can be terminated only in accordance with the laws of the State of New York applicable to the termination of easements and covenants running with the land.
7. The terms, conditions, restrictions and purpose of this Conservation Easement shall continue as a servitude running in perpetuity with the Protected Property and shall be incorporated by reference in any subsequent deed or other legal instrument by which AVR-SP divests itself of any interest in the Protected Property or any portion thereof. All references herein to AVR-SP shall also refer to any and all successors-in-interest.
8. This Conservation Easement shall be deemed notice to all future owners of their obligation to comply with the terms and conditions of the Approval with respect to their activities in or around the Protected Property.
9. Any notices required under this Conservation Easement shall be in writing. Notices shall be given either by personal delivery or by a nationally recognized overnight delivery service (i.e., Federal Express) at the addresses first set forth above. Notices shall be deemed given upon receipt or first refusal of delivery.
10. AVR-SP shall not be liable for any changes to the Protected Property resulting from any natural disaster or act of God.
11. AVR-SP represents as follows: (a) AVR-SP is seized of the Protected Property in fee simple and has good right to grant this Conservation Easement; (b) the Protected Property is free and clear of any and all encumbrances other than those of record; and (c) the Commission shall have the use of, and enjoy all the benefits derived from and arising out of, this Conservation Easement.
12. The benefits of this Conservation Easement are in gross and assignable. The Commission hereby acknowledges and agrees that any transferee or assignee will be an organization or public body qualified to hold a Conservation Easement

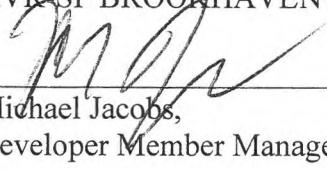
pursuant to ECL Article 49, Title 3 as the same may be amended from time to time and the regulations promulgated thereunder.

13. All references to Article 57 shall be as such provisions were in effect on the date hereof.
14. Failure of the Commission to insist upon the strict performance of any provision of this Conservation Easement shall not abrogate, or be deemed to waive, any rights under this Conservation Easement.

IN WITNESS WHEREOF, AVR-SP has executed and delivered and the Commission has accepted and received this Grant of Conservation Easement on the day and year set forth above.

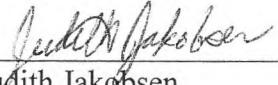
AVR-SP BROOKHAVEN JV LLC

By:


Michael Jacobs,
Developer Member Manager

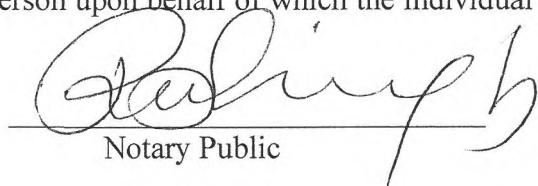
CENTRAL PINE BARRENS JOINT
PLANNING AND POLICY COMMISSION

By:


Judith Jakobsen
Executive Director

STATE OF NEW YORK }
COUNTY OF *Albany* }

On the 11 day of April, in the year 2022, before me, the undersigned, personally appeared MICHAEL JACOBS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

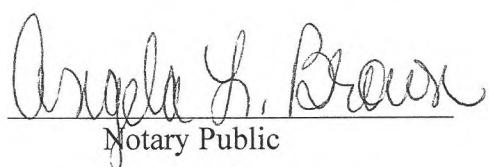


Notary Public

VIKRAM S RANA
NOTARY PUBLIC-STATE OF NEW YORK
No. 01RA6376926
Qualified in Suffolk County
My Commission Expires 06-25-2022

STATE OF NEW YORK}
}
COUNTY OF SUFFOLK}

On the 10 day of May, in the year 2022, before me, the undersigned, personally appeared JUDITH JAKOBSEN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

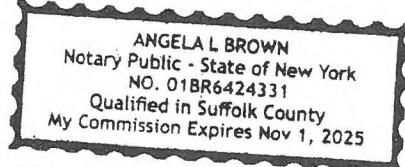


EXHIBIT A
OVERALL DESCRIPTION:

SCTM # District 0200, Section 554, Block 3, Lots 4.41, 4.45 & 4.46

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York known and designated as Lot 2 and the Wastewater Treatment Facility Leaching Field Site as shown of the Map of Brookhaven R&D Plaza, Section 2, filed in the Office of the Suffolk County Clerk on November 27, 1996 as File No. 9939, being more particularly bounded and described as follows;

BEGINNING at a point where the northerly side of Precision Drive intersects the easterly side of Ramsey Road;

THENCE from said point of beginning along the southerly side of land now or formerly of the State of New York North 78 degrees 13 minutes 19 seconds East a distance of 271.25 feet to a point; thence along the easterly side of land now or formerly of the State of New York North 10 degrees 31 minutes 24 seconds West a distance of 405.00 feet to a point on the southerly side of the Long Island Expressway; thence the following 2 courses and distances along the southerly side of the Long Island Expressway:

1. Along the arc of a curve to the right having a radius of 9,795.00 feet an arc length of 1,216.54 feet to a point;
2. North 86 degrees 35 minutes 34 seconds East a distance of 652.06 feet to a point;

thence South 02 degrees 30 minutes 24 seconds East a distance of 547.78 feet to a point on the northerly side of land now or formerly of the Long Island Railroad; thence along the northerly side of land now or formerly of the Long Island Railroad South 58 degrees 10 minutes 08 seconds West a distance of 1,975.30 feet to a point on the easterly side of land now or formerly of the Town of Brookhaven; thence along the easterly side of land now or formerly of the Town of Brookhaven North 58 degrees 16 minutes 17 seconds West a distance of 429.71 feet to a point on the easterly side of Ramsey Road; thence the following 2 courses and distances along the easterly side of Ramsey Road:

1. Along the arc of a curve to the left having a radius of 560.00 feet an arc length of 371.49 feet to a point;
2. North 11 degrees 46 minutes 41 seconds West a distance of 369.29 feet to the northerly side of Precision Drive and the point of beginning.

Containing an area of 47.26 Acres

EXHIBIT B
COMMISSION'S FINDINGS AND RESOLUTION

Central Pine Barrens Joint Planning and Policy Commission
Special Commission Meeting of February 3, 2022

Adopted Decision

RD Industrial Subdivision/Site Plan

Development of Regional Significance Compatible Growth Area
Ramsey Road/Precision Drive, Yaphank, Town of Brookhaven
Suffolk County Tax Map Numbers 200-554-3-4.41, 4.45 and 4.46

Present: Mr. Dale, for the Suffolk County Executive
Mr. Romaine, Brookhaven Town Supervisor
Ms. Aguiar, Riverhead Town Supervisor
Mr. Shea, for the Southampton Town Supervisor

I. The Project, Project Site, and Application

AVR-SP Brookhaven JV LLC (the Applicant) owns three tax parcels identified as Suffolk County Tax Map Numbers 200-554-3-4.041, 4.045 and 4.046 that comprise 47.26-acres of property (the Project Site). The Project Site is known as RD Industrial and is in the Compatible Growth Area (CGA) of the Central Pine Barrens. The Project Site is located on the south side of the Long Island Long Island Expressway (New York State Route 495, LIE), the east side of Ramsey Road and Precision Drive, in Yaphank, in the Town of Brookhaven. The Project Site is in the L Industrial 1 Zoning District.

On November 3, 2021 the Applicant, through their attorney, J. Timothy Shea Jr. of Certilman Balin, and consultant Charles J. Voorhis of Nelson Pope & Voorhis, applied to the Central Pine Barrens Joint Planning and Policy Commission (the Commission) for a Development of Regional Significance (DRS) for a three-lot subdivision and site plan on the Project Site with 505,300 square feet (11.6 acres) of commercial/industrial land uses (the Project).

The Project is the development of three buildings including two one-story warehouse buildings and a three-story mini-storage use. Specifically, the Site Plan titled "Site Plan Showing Clearing Limits from December 9, 2021" prepared by Vollmuth & Brush, dated December 23, 2021, identifies a 150,000 square foot one-story industrial building (Building A) on the west side, a three-story 105,300 square foot mini-storage use building (Building B) on the north side, and a one-story 250,000 square foot building (Building C) on the east side of the Project Site. Other structures that will be developed on the Project Site include a 60-foot wide through-road, driveways, truck loading docks, drainage structures, retaining walls, utilities, and other infrastructure.

The Project Site is in Groundwater Management Zone III. The Project will connect to Sewer District Number 2 and will be connected to public water.

A Stormwater Pollution Prevention Plan (SWPPP) will be prepared and submitted to Town Engineer and New York State Department of Conservation for review and approval prior to

disturbance. The SWPPP is a requirement to manage stormwater and implement erosion controls during construction.

Approximately 93% or 43.88 acres of the 47.26 acre Project Site is naturally vegetated. Approximately 7% or 3.38 acres of the Project Site is cleared. Construction of the Project will occur on 30.44 acres or 64.4% of the Project Site. This area includes 27.06 acres of natural vegetation and 3.38 acres of existing cleared area. After clearing is complete, 16.82 acres or 35.59% of the Project Site as natural open space will be protected conservation easement.

One conservation easement will be prepared to protect open space. Five separate areas of open space are described and as shown in the Plan titled "Site Plan Showing Clearing Limits from December 9, 2021" prepared by Vollmuth & Brush dated December 23, 2021, including:

- Area A, 9.74 acres on the south side
- Area B, 5.69 acres on the north side
- Area C, 1.24 acres on the west side
- Area D1, 0.07 acres, on the north side of Building A
- Area D2, 0.08 acres, on the north side of Building A

The Project will be developed on slopes less than 10% grade to the greatest extent. No natural steep slope topographic features exist on the site. Manmade slopes greater than 15% grade are present on 1.85 acres of the Project Site. Retaining walls will be developed. Where feasible, planted slopes are preferred over hard structures such as retaining walls.

In its November 5, 2021 correspondence, the New York State Office of Parks, Recreation and Historic Preservation stated the Project will have no impact on archaeological and/or historic resources listed on or eligible for the New York State and National Registers of Historic Places.

In its January 5, 2022 correspondence, the New York Natural Heritage Program (NHP) reported that a Federal or State-listed Threatened mammal, the Northern Long Eared Bat (NLEB), is documented within one mile of the Project Site and individuals may travel 1.5 mile from documented locations. The impact of concern is for cutting and removal of potential roost trees outside of the December 1 to February 28 clearing window. To protect the NLEB habitat, the applicant will adhere to NYSDEC restricted tree clearing periods.

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

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

ECL Section §57-0123(3)(a)) provides that, "[s]ubsequent to the adoption of the land use plan, the provisions of any other law, ordinance, rule or regulation to the contrary notwithstanding, no application for development within the Central Pine Barrens area shall be approved by . . . the [C]ommission . . . unless such approval or grant conforms to the provisions of such land use plan." The Act provides the Commission with authority to exempt a Project from compliance through the issuance of a Commission approved hardship exemption. The Act contains the standards to use to determine whether a hardship exists.

The Project is a Development of Regional Significance (DRS) as defined in Section 4.5.5.1 of the Central Pine Barrens Comprehensive Land Use Plan ("the Plan") since it exceeds 300,000 square foot gross floor area for commercial/industrial development. As a DRS, the Applicant must demonstrate that the Project conforms to Standards and Guidelines, outlined in Chapter 5 of the Plan. If the Project does not conform, the Applicant cannot proceed unless it receives an hardship exemption or modifies the Project to make it conform.

The Applicant commenced proscribed regulated development of the Project site without Commission approval. On December 15, 2021, the Commission issued a Notice of Violation to the Applicant directing it to terminate the prohibited activity. The Applicant resolved the violation through an Order on Consent. During the pendency of the Notice of Violation, the Commission's review of the Application was suspended. Review resumed on January 5, 2022 when the Commission scheduled a public hearing on the Application for January 19, 2022.

III. The Public Process, Testimony, and Supplemental Materials

The DRS Application includes Part I of the Full Environmental Assessment Form (EAF), a review of Standards and Guidelines for Land Use, Subdivision/Site Plan and a Slope Analysis Plan.

The Applicant supplemented its November 9, 2021 application with materials submitted on January 14, 2022. A hearing was held on January 19 on the Application to determine whether the Project conformed with the Plan's Standards and Guidelines. A Commission Staff Report was provided to the Commission members and made available to the public through posting on the Commission's website prior to the Hearing. Only one member of the public commented at the Hearing. The written comment period was held open until noon on January 28. No written comments were received. A stenographic transcript was made of the hearing and provided to Commission members.

On January 20, the Applicant submitted additional material including the site plan package with 26 sheets titled RD Industrial at Yaphank originally dated March 16, 2021 and last dated January 10, 2022. These materials were the same as presented at the Hearing and did not materially differ from the materials submitted on January 14. In the last set of materials, the Applicant provided a letter explaining the amended site plan in the application approved by the Town on January 10, 2022 and eight plans. Amendments to the plans included reducing widths of truck driveway aisles and modifications to truck entrances and utilities and the potential for two additional blocks of open space on the north side of Building A.

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

The Project is a Type I Action under the New York State Quality Review Act (SEQRA). On October 21, 2021, the Commission received the State Environmental Quality Review Act (SEQRA) Lead Agency Coordination from the Brookhaven Town Planning Board for the Project Action. The Commission deferred Lead Agency and on December 6, the Planning Board assumed Lead Agency, adopted a Negative Declaration and approved the Project with conditions and variances. The Planning Board approved a site plan modification on January 10, 2022. The Town approved Project was the same as described in the materials presented during the Commission's hearing.

The Project requires additional permits and/or approvals from other involved agencies including the Suffolk County Department of Health Services, NYSDEC and the Town of Brookhaven.

V. History of the Project Site

The project site is in the Brookhaven R&D Plaza, which is an industrial subdivision approved in the 1980s. A Generic Environmental Impact Statement was prepared and Findings Statement was adopted on September 14, 1982. The development of each lot is subject to its own site specific environmental review.

VI. The Project Site and the Study Area

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

VII. Development of Regional Significance Review and Plan Conformance

Summary

Chapter 4 of the Plan outlines the review process for DRS projects. The Commission's review is limited to compliance with the Standards and Guidelines set forth in Volume 1, Chapter 5 of the Plan.

Standards and Guidelines that are Not Applicable

The Standards and Guidelines that do not apply to the Project either because the Project does not include a facility, structure or use that will cause an impact, the resource is not present, or the activity is not occurring include Standard 5.3.3.4.1 because freshwater wetland habitat is not present; Standard 5.3.3.4.3 because the site is not within the jurisdiction of the Wild, Scenic and Recreational Rivers Act; and Guideline 5.3.3.5.3 because no ponds are proposed.

Applicable Standards and Guidelines

A summary of the Standards and Guidelines identifies the status of conformance. Details are provided where relevant and applicable to explain conclusions related to conformity. It is noted where conformance is deferred to other agencies such as the Suffolk County Department of Health Services or NYSDEC that regulate protection of public health, groundwater and other natural resources.

Since the proposed land use is commercial/industrial, the uses may be subject to regulations that pertain to the management and storage of chemicals and hazardous materials and control of stormwater runoff to minimize water pollution. Where the Plan defers to another agency for regulated activity, the Project must obtain the other agency's approval. If the Project as reviewed by the Commission, does not comply with or is unable to obtain other required approvals, the Applicant must with either obtain a Commission hardship exemption or modify the Project to conform with the Standards and Guidelines.

Standard or Guideline	Title	Conformance
Standard 5.3.3.1.1	Suffolk County Sanitary Code Article 6 Compliance	The Project will generate 20,212 gallons of wastewater per day. Compliance to be demonstrated upon Suffolk County Department of Health Services approval.
Guideline 5.3.3.1.3	Nitrate-nitrogen goal of 2.5 mg/l	The Project's nitrogen concentration is 1.44 mg/l. Conformance is demonstrated.
Standard 5.3.3.2.1	Suffolk County Sanitary Code Articles 7 & 12 compliance	Compliance to be demonstrated upon Suffolk County Department of Health Services approval.
Standard 5.3.3.3.1	Significant discharges and public supply well locations	Compliance to be demonstrated upon Suffolk County Department of Health Services and New York State Department of Environmental Conservation approvals.
Guideline 5.3.3.3.2	Private well protection	Compliance to be demonstrated upon Suffolk County Department of Health Services and New York State Department of Environmental Conservation approvals.
Standard 5.3.3.5.1	Stormwater recharge	Compliance to be demonstrated upon other agency approval(s) of a Stormwater Pollution Prevention Plan
Guideline 5.3.3.5.2	Natural recharge and drainage	Obtain approval of the SWPPP. Compliance to be demonstrated upon other agency approval(s) of a Stormwater Pollution Prevention Plan
Guideline 5.3.3.5.4	Natural topography in lieu of recharge basins	The Project proposes to construct a water recharge area on the north side of Building A identified in the Site Plan as an "overflow low point storage swale". This is subject to Town Engineer approval.
Guideline 5.3.3.5.5	Soil erosion and stormwater runoff control during construction	Compliance to be demonstrated upon other agency approval of a Stormwater Pollution Prevention Plan.

Standard 5.3.3.6.1	Vegetation Clearance Limits	<ul style="list-style-type: none"> • The Project conforms with this Standard and does not exceed the maximum clearing limit of 65% in an industrial zoning district. • The Project will clear less than the maximum amount, 64.4%, including the area of prior disturbance, as directed by the Plan. • A maximum area of 16.82 acres or 35.59% of the Project Site will remain as natural open space. • Open space will be protected in a Conservation Easement granted to the Commission and monitored by Commission staff in the future. • Natural areas will be temporarily fenced prior to clearing and construction and subject to inspection • Temporary fencing shall remain in place and be maintained in a functional state during construction • When construction is complete, temporary fencing will be removed and permanent fencing such as split rail will be installed on the limits of natural open space <ul style="list-style-type: none"> ○ The Project prioritizes the preservation of native pine barrens vegetation as unfragmented open space to the maximum extent practicable due to the unique factors on the Project site including: ○ The site's location in an industrial subdivision that was planned and approved by the Town of Brookhaven in the 1980s. The three lots acquired by the applicant were merged and reconfigured to suit a regionally significant development plan that achieves conformance with the Plan Standards and Guidelines for land use. ○ The Town as Lead Agency, adopted a Negative Declaration for the Project finding no significant adverse environmental impacts as a result of the Project and the Project's consistency with the prior GEIS and Findings Statement for the 238 acre industrial subdivision. ○ The Town approved the Project with conditions in December 2021 and amended the approval with conditions on January 10, 2022 to recognize the applicant's amended proposal to reconfigure driveways and other infrastructure to increase the areas of blocks of open space and allow for improved truck circulation. ○ The Project reuses existed cleared areas of the site due to prior disturbance including a developed road that bisects the site. The road will be realigned and extended to the eastern boundary to accommodate a potential future passenger railroad station to the east, a vision that was supported by the Town of Brookhaven and Suffolk County during their reviews of the Project. ○ A former recharge basin on the site will be discontinued and the area will be reused for the Project. Upgraded stormwater structures will be developed to accommodate stormwater control on site. ○ No opportunities exist to connect open space on the Project Site with adjacent open space because there is no
Standard 5.3.3.6.2	Unfragmented open space	

		<p>designated contiguous open space. The site is surrounded by development on three sides—north, south and west including the New York State highway corridor of the Long Island Expressway to the north, the Long Island Rail Road train tracks to the south, and the industrial park to the west—and private land to the east. No open space adjacent to the site presently exists to achieve connectivity as supported in the Plan. Therefore, the site design has been configured within the Project Site in a way to prioritize the preservation of native pine barrens vegetation as unfragmented open space to the maximum extent practicable taking into account extenuating circumstances and limitations that presently exist due to the Project Site's history, layout and location.</p> <ul style="list-style-type: none"> ○ The project conforms to the unfragmented open space standard based on the aforementioned site considerations. ○ Open space will be protected in a conservation easement dedicated to the Commission.
Standard 5.3.3.6.3	Fertilizer-dependent vegetation limit	An area of 1.34 acres or 2.84% of the Project Site will be placed in fertilizer dependent vegetation, which is less than the maximum allowable limit of 15% or 7.09 acres of the Project Site.
Standard 5.3.3.6.4	Native Plantings	<ul style="list-style-type: none"> ● Native species will be planted except for a dense buffer of arborvitae to screen south side of Building C to buffer the view from residential communities on the south side of the adjacent railroad corridor. ● Transplanting of native plant material is encouraged. ● Flag trees to be protected in place during construction.
Standard 5.3.3.7.1	Special species and ecological communities	<ul style="list-style-type: none"> ● The Project will conform if it adheres to NYSDEC guidance to protect the Northern Long eared Bat, a New York State and Federal-listed Threatened species and its habitat as per the NHP letter and guidance from NYSDEC Region 1.
Guideline 5.3.3.8.1	Clearing envelopes	Stake and snow fence clearing envelopes prior to site disturbance and construction.
Guideline 5.3.3.8.2	Stabilization and erosion control	Obtain approval from the Town Engineer for soil erosion control and stabilization measures during and after construction.
Guideline 5.3.3.8.3	Slope analysis	The slope analysis showed 1.85 acres of slopes greater than 15%. The Applicant's testimony indicated these slopes are man-made mounds from prior site disturbance as opposed to natural topographic features.
Guideline 5.3.3.8.4	Erosion and sediment control plans	Obtain required approval of erosion and sediment control plans.
Guideline 5.3.3.8.5	Placement of roadways	Obtain approval for the proposed roads and driveways.
Guideline 5.3.3.8.6	Retaining walls and control structures	<ul style="list-style-type: none"> ● Retaining walls are proposed and shown in the site plan sheets. ● Obtain approval of the Town Engineer. ● Planted slopes are encouraged where feasible over hard structures.
Guideline	Clustering	Although greater clustering is always possible, as directed by the

5.3.3.9.2		Guideline, the Town has determined that the site design is acceptable to conform to Town Code regulations including dimensional areas for the Project Site and the Brookhaven R&D industrial subdivision.
Guideline 5.3.3.9.3	Protection of dedicated open space	<ul style="list-style-type: none"> Open space will be protected in conservation easements dedicated to the Commission. Record easements prior to construction activity and no more than six months after the date of this Resolution. Provide proof of recording to the Commission.
Guideline 5.3.3.11.1	Cultural resource consideration	<ul style="list-style-type: none"> No signage, either free standing or on a building, shall be visible from the LIE. A covenant should be recorded to avoid construction of signage visible from the LIE Signs are proposed on the Project Site's interior roadways. Monument or other signage on site shall be no taller than 15 feet.
Guideline 5.3.3.11.2	Inclusion of cultural resources in applications	<ul style="list-style-type: none"> Preserve the widest roadside buffer on the LIE The Project will have no impact on archaeological and/or historic resources listed on or eligible for the New York State and National Registers of Historic Places.
Guideline 5.3.3.11.3	Protection of scenic and recreational resources	Preserve the widest roadside buffer on the LIE
Guideline 5.3.3.11.4	Roadside design and management	Preserve the widest roadside buffer on the LIE No new access roads shall be developed without commission review
Guideline 5.3.3.12.1	Commercial and industrial compliance with Suffolk County Sanitary Code	Compliance to be demonstrated upon Suffolk County Department of Health Services approval, as applicable.

VIII. Conclusion

The Project entitled RD Industrial Compatible Growth Area Development of Regional Significance is depicted in the plan titled "Site Plan Showing Clearing Limits from December 9, 2021" prepared by Vollmuth and Brush dated December 23, 2021 and the Site Plan package last dated January 10, 2022 and prepared by Vollmuth and Brush has demonstrated conformance for the foregoing reasons, is approved, and is subject to the following conditions.

1. No expansion of structures that increase building height, floor area, sewage flow or clearing on the Project Site or reduce the amount of open space required in this Resolution.
2. No on site septic will be installed. The Project will connect to the Suffolk County Sewer District No. 2 in the Brookhaven R&D Plaza. Suffolk County Department of Health Services approval is required.

3. No more than 27.06 acres of existing natural vegetation may be cleared. Combined with 3.38 acres of existing cleared area, no more than 30.44 acres (64.4%) of the site may be developed. No less than 16.82 acres or 35.59% must remain as natural open space and protected in a Conservation Easement.

4. Conservation Easement

- a. Submit one draft Conservation Easement (CE) to protect 16.82 acres of open space that is granted to the Commission for review within two months of this Resolution. The Easement is subject to approval of the Commission's Executive Director.
- b. A CE shall protect a 16.82 acres or 35.59% of the Project Site.
- c. Areas where groundwater remediation equipment is installed on the Project Site constitute environmental restoration, as defined in the Act, and are not subject to Easement terms and may be included in the Reserved Rights section of the CE.
- d. Commission shall have the right to inspect the CE areas of open space on an annual basis.
- e. Easements shall be recorded in the Suffolk County Clerk's Office before grading activities commence on the Project Site.
- f. Submit proof of recording to the Commission.

5. Record a Declaration of Covenants and Restrictions

- a. No more than 15% fertilizer dependent vegetation on the Project Site.
- b. No signage shall be visible from the north side of the site and from the Long Island Expressway including building signs, free standing signs and monument signs.

6. Prior to disturbance and construction on site, install temporary snow fencing on clearing limits. Maintain temporary fencing in a functional state until construction is complete then remove temporary fencing.

7. Notify the Commission for inspection of snow fencing that delineates the clearing limits 48 hours prior to disturbance. Where a tree is on the immediate border, stake the tree within the easement area to protect it and avoid removal.

8. Notify the Commission for inspection when clearing is complete.

9. When construction is complete:

- a. Notify Commission in writing.
- b. Submit an As Built Site Plan within one year of completion of the Project. This plan will be used by the Commission in future monitoring and conformance inspections.
- c. Install split rail fencing on the boundaries of easement areas within one year of completion of construction.

10. Comply with all NYSDEC regulations and guidance to protect listed species including the Threatened Northern Long-eared Bat.

11. Retain a natural vegetated buffer on the LIE to the greatest extent.

- .. Limit nighttime lighting and where it is necessary, install dark skies compliant lighting fixtures that face downward.
- 13. Comply with other local, Suffolk County and New York State regulations.
- 14. This approval shall expire five (5) years from the date of this Resolution.
- 15. Any changes of the Project, as approved, must be reviewed and approved by the Commission.

Motion to Determine Conformance with Standards and Guidelines for RD Industrial CGA-DRS

Date: February 3, 2022

Motion By: Mr. Romaine

Seconded: Mr. Dale

Vote:

Yes: 4 (Mr. Dale, Mr. Romaine, Ms. Aguiar, Mr. Shea)

No: None

Abstain: None

Absent: None

Copies of This Decision Will be Sent To:

New York State Department of Environmental Conservation, Environmental Permits, Region 1

New York State Department of Transportation

Suffolk County Planning Commission

Suffolk County Department of Health Services

Suffolk County Department of Public Works

Suffolk County Sewer Agency

Suffolk County Water Authority

Town of Brookhaven Supervisor

Town of Brookhaven Town Clerk

Town of Brookhaven Town Board

Town of Brookhaven Board of Zoning Appeals

Town of Brookhaven Planning Environment and Land Management

Town of Brookhaven Building Department

Town of Brookhaven Parks and Recreation Department

Applicant

Attorney

EXHIBIT C
DESCRIPTION OF CONSERVATION EASEMENT

January 24, 2022

DESCRIPTION OF CONSERVATION EASEMENT "A"

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York, being more particularly bounded and described as follows;

BEGINNING at a point the following two courses and distances from the intersection of the easterly side of Ramsey Road with the northerly side of Precision Drive:

1. Southerly as measured along the easterly side of Ramsey Road a distance of 740.78 feet to a point.
2. South 58 degrees 16 minutes 17 seconds East a distance of 41.18 feet to the point of beginning.

THENCE from said point of beginning the following 93 courses and distances running through Suffolk County Tax Map parcel District 0200, Section 554, Block 3, Lots 4.46 and 4.41:

1. North 31 degrees 43 minutes 43 seconds East a distance of 15.56 feet to a point;
2. Along the arc of a curve to the left having a radius of 13.68 feet an arc length of 9.68 feet to a point;
3. Along the arc of a curve to the right having a radius of 15.00 feet an arc length of 30.49 feet to a point;
4. South 72 degrees 22 minutes 09 seconds East a distance of 13.48 feet to a point;
5. South 58 degrees 16 minutes 17 seconds East a distance of 17.80 feet to a point;
6. Along the arc of a curve to the right having a radius of 50.00 feet an arc length of 20.01 feet to a point;
7. Along the arc of a curve to the left having a radius of 95.50 feet an arc length of 38.22 feet to a point;
8. South 58 degrees 16 minutes 17 seconds East a distance of 36.01 feet to a point;
9. South 64 degrees 07 minutes 40 seconds East a distance of 38.93 feet to a point;
10. South 71 degrees 49 minutes 01 seconds East a distance of 30.59 feet to a point;
11. North 88 degrees 22 minutes 07 seconds East a distance of 23.01 feet to a point;
12. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 8.19 feet to a point;
13. South 44 degrees 41 minutes 39 seconds East a distance of 11.03 feet;
14. North 78 degrees 30 minutes 55 seconds East a distance of 281.01 feet to a point;
15. Along the arc of a curve to the left having a radius of 5.00 feet an arc length of 7.88 feet to a point;

16. North 11 degrees 46 minutes 41 seconds West a distance of 5.45 feet to a point;
17. Along the arc of a curve to the right having a radius of 5.00 feet an arc length of 7.94 feet to a point;
18. Along the arc of a curve to the left having a radius of 91.00 feet an arc length of 33.41 feet to a point;
19. North 58 degrees 10 minutes 08 seconds East a distance of 75.48 feet to a point;
20. Along the arc of a curve to the left having a radius of 81.00 feet an arc length of 92.47 feet to a point;
21. Along the arc of a curve to the right having a radius of 4.00 feet an arc length of 5.97 feet to a point;
22. North 78 degrees 13 minutes 19 seconds East a distance of 8.91 feet to a point;
23. Along the arc of a curve to the left having a radius of 10.00 feet an arc length of 18.59 feet to a point;
24. North 28 degrees 16 minutes 57 seconds West a distance of 17.92 feet to a point;
25. North 13 degrees 13 minutes 26 seconds West a distance of 43.27 feet to a point;
26. North 14 degrees 02 minutes 39 seconds West a distance of 60.34 feet to a point;
27. Along the arc of a curve to the right having a radius of 5.00 feet an arc length of 7.71 feet to a point;
28. North 74 degrees 20 minutes 31 seconds East a distance of 26.44 feet to a point;
29. Along the arc of a curve to the left having a radius of 20.00 feet an arc length of 31.49 feet to a point;
30. North 15 degrees 52 minutes 56 seconds West a distance of 122.59 feet to a point;
31. North 15 degrees 53 minutes 29 seconds West a distance of 45.25 feet to a point;
32. North 11 degrees 11 minutes 39 seconds West a distance of 11.28 feet to a point;
33. North 11 degrees 48 minutes 43 seconds West a distance of 168.69 feet to a point;
34. Along the arc of a curve to the left having a radius of 10.00 feet an arc length of 15.50 feet to a point;
35. South 79 degrees 23 minutes 12 seconds West a distance of 34.18 feet to a point;
36. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 15.50 feet to a point;
37. North 11 degrees 46 minutes 41 seconds West a distance of 77.18 feet to a point;
38. Along the arc of a curve to the left having a radius of 116.50 feet an arc length of 72.77 feet to a point;
39. North 78 degrees 33 minutes 04 seconds East a distance of 34.84 feet to a point;
40. North 80 degrees 29 minutes 04 seconds East a distance of 119.30 feet to a point;
41. Along the arc of a curve to the right having a radius of 20.00 feet an arc length of 25.33 feet to a point;
42. South 26 degrees 57 minutes 34 seconds East a distance of 60.34 feet to a point;
43. Along the arc of a curve to the right having a radius of 50.00 feet an arc length of 16.26 feet to a point;
44. South 08 degrees 19 minutes 56 seconds East a distance of 23.65 feet to a point;
45. Along the arc of a curve to the left having a radius of 50.00 feet an arc length of 21.21 feet to a point;

46. South 32 degrees 37 minutes 56 seconds East a distance of 116.47 feet to a point;
47. Along the arc of a curve to the right having a radius of 15.00 feet an arc length of 20.79 feet to a point;
48. Along the arc of a curve to the left having a radius of 34.00 feet an arc length of 40.99 feet to a point;
49. Along the arc of curve to the right having a radius of 5.00 feet an arc length of 6.95 feet to a point;
50. South 58 degrees 10 minutes 08 seconds West a distance of 9.63 feet to a point;
51. Along the arc of a curve to the left having a radius of 5.00 feet an arc length of 7.85 feet to a point;
52. South 31 degrees 49 minutes 52 seconds East a distance of 267.00 feet to a point;
53. North 58 degrees 10 minutes 08 seconds East a distance of 108.70 feet to a point;
54. Along the arc of a curve to the left having a radius of 99.77 feet an arc length of 36.94 feet to a point;
55. North 65 degrees 40 minutes 33 seconds East a distance of 7.13 feet to a point;
56. Along the arc of a curve to the right having a radius of 25.00 feet an arc length of 36.47 feet to a point;
57. South 30 degrees 44 minutes 20 seconds East a distance of 10.87 feet to a point;
58. South 71 degrees 19 minutes 50 seconds East a distance of 11.33 feet to a point;
59. North 84 degrees 12 minutes 10 seconds East a distance of 10.25 feet to a point;
60. North 61 degrees 36 minutes 04 seconds East a distance of 19.81 feet to a point;
61. North 55 degrees 01 minutes 44 seconds East a distance of 154.26 feet to a point;
62. North 56 degrees 15 minutes 17 seconds East a distance of 75.87 feet to a point;
63. North 50 degrees 10 minutes 36 seconds East a distance of 50.93 feet to a point;
64. North 58 degrees 04 minutes 13 seconds East a distance of 297.86 feet to a point;
65. North 60 degrees 42 minutes 36 seconds East a distance of 145.76 feet to a point;
66. North 15 degrees 34 minutes 39 seconds East a distance of 8.95 feet to a point;
67. North 13 degrees 26 minutes 46 seconds West a distance of 5.46 feet to a point;
68. North 34 degrees 19 minutes 36 seconds West a distance of 30.62 feet to a point;
69. North 03 degrees 48 minutes 05 seconds East a distance of 17.13 feet to a point;
70. North 57 degrees 26 minutes 35 seconds East a distance of 56.03 feet to a point;
71. North 58 degrees 10 minutes 08 seconds East a distance of 60.58 feet to a point;
72. Along the arc of a curve to the left having a radius of 34.50 feet an arc length of 45.97 feet to a point;
73. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 13.33 feet to a point;
74. North 58 degrees 10 minutes 08 seconds East a distance of 6.26 feet to a point;
75. Along the arc of a curve to the left having a radius of 5.00 feet an arc length of 7.85 feet to a point;
76. North 31 degrees 55 minutes 27 seconds West a distance of 307.50 feet to a point;
77. Along the arc of a curve to the left having a radius of 5.01 feet an arc length of 7.85 feet to a point;
78. South 58 degrees 10 minutes 08 seconds West a distance of 9.05 feet to a point;

79. Along the arc of a curve to the right having a radius of 5.00 feet an arc length of 7.63 feet to a point;
80. Along the arc of a curve to the left having a radius of 44.00 feet an arc length of 46.07 feet to a point;
81. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 15.95 feet to a point;
82. North 02 degrees 55 minutes 40 seconds West a distance of 72.38 feet to a point;
83. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 16.73 feet to a point;
84. South 87 degrees 05 minutes 34 seconds East a distance of 9.50 feet to a point;
85. North 89 degrees 36 minutes 33 seconds East a distance of 3.79 feet to a point;
86. North 76 degrees 16 minutes 48 seconds East a distance of 21.76 feet to a point;
87. North 89 degrees 13 minutes 34 seconds East a distance of 43.17 feet to a point;
88. North 85 degrees 26 minutes 29 seconds East a distance of 39.25 feet to a point;
89. North 87 degrees 11 minutes 32 seconds East a distance of 47.75 feet to a point;
90. North 87 degrees 26 minutes 07 seconds East a distance of 67.30 feet to a point;
91. Along the arc of a curve to the right having a radius of 2,540.57 feet an arc length of 14.83 feet to a point;
92. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 12.45 feet to a point;;
93. Along the arc of a curve to the left having a radius of 75.78 feet an arc length of 230.48 feet to a point;

thence South 02 degrees 30 minutes 24 seconds East a distance of 473.62 feet to a point on the northerly side of land now or formerly of the Long Island Railroad; thence along the northerly side of the land now or formerly of the Long Island Railroad South 58 degrees 10 minutes 08 seconds West a distance of 1,975.30 feet to a point; thence North 58 degrees 16 minutes 17 seconds West a distance of 388.53 feet to the point of beginning.

Containing an area of 10.13 Acres

January 24, 2022

DESCRIPTION OF CONSERVATION EASEMENT "B"

ALL that certain piece or parcel of land situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York, being more particularly bounded and described as follows;

BEGINNING at a point the following course and distance from the intersection of the easterly side of Ramsey Road with the northerly side of Precision Drive:

1. North 78 degrees 13 minutes 19 seconds East a distance of 271.25 feet to the point of beginning.

THENCE from said point of beginning North 10 degrees 31 minutes 24 seconds West a distance of 405.00 to a concrete monument on the southerly side of the Long Island Expressway; thence along the Long Island Expressway the following 2 courses:

1. Along the arc of a curve to the right having a radius of 9,795.00 feet an arc length of 1,216.54 feet to a point;
2. North 86 degrees 35 minutes 34 seconds East a distance of 137.20 feet to a point;

Thence through Suffolk County Tax Map parcel district 0200, section 554, Block 3, Lot 4.46 the following 16 courses and distances:

1. Along the arc of a curve to the left having a radius of 260.00 feet an arc length of 128.98 feet to a point;
2. South 58 degrees 10 minutes 08 seconds West a distance of 20.26 feet to a point;
3. South 81 degrees 40 minutes 00 second West a distance of 14.51 feet to a point;
4. South 72 degrees 59 minutes 36 seconds West a distance of 30.60 feet to a point;
5. South 68 degrees 43 minutes 41 seconds West a distance of 14.93 feet to a point;
6. South 68 degrees 35 minutes 27 seconds West a distance of 15.99 feet to a point;
7. South 56 degrees 33 minutes 26 seconds West a distance of 44.38 feet to a point;
8. South 37 degrees 17 minutes 42 seconds West a distance of 13.75 feet to a point;
9. South 30 degrees 40 minutes 56 seconds West a distance of 12.24 feet to a point;
10. South 44 degrees 53 minutes 23 seconds West a distance of 32.40 feet to a point;
11. South 58 degrees 10 minutes 08 seconds West a distance of 109.34 feet to a point;
12. South 65 degrees 33 minutes 15 seconds West a distance of 38.88 feet to a point;
13. South 59 degrees 17 minutes 51 seconds West a distance of 60.80 feet to a point;
14. South 54 degrees 04 minutes 13 seconds West a distance of 86.67 feet to a point;
15. South 58 degrees 10 minutes 08 seconds West a distance of 285.68 feet to a point;

16. Along the arc of a curve to the right having a radius of 200.00 feet an arc length of 82.31 feet to a point;

Thence along the arc of a curve to the right having a radius of 3,800.00 feet an arc length of 233.87 feet to a point; thence South 78 degrees 13 minutes 19 seconds West a distance of 47.74 feet to a point;

Thence through Suffolk County Tax Map parcel district 0200, section 554, Block 3, Lot 4.46 the following 30 courses and distances:

1. Along the arc of a curve to the right having a radius of 20.00 feet an arc length of 17.03 feet to a point;
2. North 52 degrees 59 minutes 06 seconds West a distance of 4.16 feet to a point;
3. Along the arc of a curve to the right having a radius of 8.00 feet an arc length of 18.34 to a point;
4. Along the arc of a curve to the left having a radius of 15.00 feet an arc length 20.65 feet to a point;
5. Along the arc of a curve to the right having a radius of 10.00 feet an arc length 13.98 feet to a point;
6. North 79 degrees 36 minutes 24 seconds East a distance of 92.42 feet to a point;
7. North 77 degrees 07 minutes 28 seconds East a distance of 73.44 feet to a point;
8. North 83 degrees 02 minutes 13 seconds East a distance of 26.57 feet to a point;
9. North 77 degrees 41 minutes 10 seconds East a distance of 19.42 feet to a point;
10. Along the arc of a curve to the left having a radius 4.18 feet an arc length of 6.34 feet to a point;
11. North 09 degrees 17 minutes 59 seconds West a distance of 60.51 feet to a point;
12. North 12 degrees 38 minutes 31 seconds West a distance of 90.06 feet to a point;
13. North 10 degrees 28 minutes 07 seconds West a distance of 85.29 feet to a point;
14. North 04 degrees 04 minutes 26 seconds West a distance of 55.56 feet to a point;
15. Along the arc of a curve to the left having a radius of 7.82 feet an arc length 12.79 feet to a point;
16. South 79 degrees 29 minutes 47 seconds West a distance of 97.36 feet to a point;
17. South 77 degrees 42 minutes 02 seconds West a distance of 61.43 feet to a point;
18. South 79 degrees 59 minutes 59 seconds West a distance of 112.74 feet to a point;
19. South 86 degrees 28 minutes 03 seconds West a distance of 42.82 feet to a point;
20. Along the arc of a curve to the left having a radius of 12.45 feet an arc length 22.12 feet to a point;
21. South 16 degrees 49 minutes 35 seconds East a distance of 49.60 feet to a point;
22. South 11 degrees 50 minutes 25 seconds East a distance of 93.71 feet to a point;
23. South 14 degrees 32 minutes 18 seconds East a distance of 36.94 feet to a point;
24. South 09 degrees 52 minutes 11 seconds East a distance of 54.06 feet to a point;
25. Along the arc of a curve to the left having a radius of 3.77 feet an arc length 6.62 feet to a point;

26. North 77 degrees 27 minutes 27 seconds East a distance of 16.20 feet to a point;
27. South 10 degrees 36 minutes 56 seconds East a distance of 66.15 feet to a point;
28. South 08 degrees 53 minutes 15 seconds East a distance of 16.23 feet to a point;
29. South 21 degrees 32 minutes 51 seconds West a distance of 15.06 feet to a point;
30. Along the arc of a curve to the right having a radius of 20.00 feet an arc length of 18.86 feet to a point;

Thence South 78 degrees 13 minutes 19 seconds West a distance of 41.86 feet to the point of beginning.

Containing an area of 5.69 Acres.

January 24, 2022

DESCRIPTION OF CONSERVATION EASEMENT "C"

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York, being more particularly bounded and described as follows;

BEGINNING at a point on the easterly side of Ramsey Road a distance of 369.29 feet southerly as measured along the easterly side of Ramsey Road from the intersection of the easterly side of Ramsey Road with the northerly side of Precision Drive;

THENCE from said point of beginning along the easterly side of Ramsey Road North 11 degrees 46 minutes 41 seconds West a distance of 177.47 feet to a point; thence the following 26 courses and distances running through Suffolk County Tax Map parcel District 0200, Section 554, Block 3, Lots 4.46:

1. Along the arc of a curve to the right having a radius of 20.00 feet an arc length of 32.72 feet to a point;
2. North 81 degrees 58 minutes 02 seconds East a distance of 8.90 feet to a point;
3. Along the arc of a curve to the left having a radius of 165.00 feet an arc length 24.95 feet to a point;
4. North 73 degrees 18 minutes 11 seconds East a distance of 29.47 feet to a point;
5. Along the arc of a curve to the right having a radius of 15.00 feet an arc length of 39.97 feet to a point;
6. Along the arc of a curve to the left having a radius of 10.00 feet an arc length of 10.72 feet to a point;
7. South 14 degrees 28 minutes 35 seconds East a distance of 46.94 feet to a point;
8. South 13 degrees 51 minutes 23 seconds East a distance of 40.23 feet to a point;
9. South 11 degrees 13 minutes 14 seconds East a distance of 64.28 feet to a point;
10. South 09 degrees 31 minutes 00 seconds East a distance of 69.33 feet to a point;
11. South 09 degrees 07 minutes 36 seconds East a distance of 98.06 feet to a point;
12. South 13 degrees 24 minutes 31 seconds East a distance of 41.94 feet to a point;
13. South 09 degrees 35 minutes 04 seconds East a distance of 83.26 feet to a point;
14. South 15 degrees 50 minutes 36 seconds East a distance of 79.59 feet to a point;
15. South 16 degrees 40 minutes 42 seconds East a distance of 32.63 feet to a point;
16. Along the arc of a curve to the right having a radius of 6.00 feet an arc length of 14.38 feet to a point;
17. North 59 degrees 20 minutes 41 seconds West a distance of 13.52 feet to a point;
18. Along the arc of a curve to the left having a radius of 50.00 feet an arc length of 6.63 feet to a point;

19. North 66 degrees 56 minutes 18 seconds West a distance of 16.83 feet to a point;
20. Along the arc of a curve to the right having a radius of 40.00 feet an arc length of 39.42 feet to a point;
21. North 10 degrees 28 minutes 32 seconds West a distance of 11.78 feet to a point;
22. Along the arc of a curve to the left having a radius of 50.00 feet an arc length of 35.16 feet to a point;
23. North 50 degrees 45 minutes 46 seconds West a distance of 14.44 feet to a point;
24. Along the arc of a curve to the left having a radius of 50.00 feet an arc length of 18.94 feet to a point;
25. North 72 degrees 27 minutes 51 seconds West a distance of 41.09 feet to a point;
26. Along the arc of a curve to the right having a radius of 25.00 feet an arc length of 36.65 feet to a point on the easterly side of Ramsey Road;

thence along the easterly side of Ramsey Road along the arc of a curve to the left having a radius of 560.00 feet an arc length of 211.55 feet to the point of beginning.

Containing an area of 1.22 Acres

DESCRIPTION OF CONSERVATION EASEMENT "D1"

ALL that certain piece or parcel of land situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York, being more particularly bounded and described as follows;

BEGINNING at a point the following 2 courses and distances from the intersection of the easterly side of Ramsey Road with the northerly side of Precision Drive:

1. South 11 degrees 46 minutes 41 seconds East a distance of 81.30 feet to a point;
2. North 78 degrees 13 minutes 19 seconds East a distance of 26.00 feet to the point of beginning;

THENCE from said point of beginning the following 8 courses and distances through SCTM parcel District 0200, Section 554, Block 3, Lot 4.46;

1. Along the arc of a curve to the right having a radius of 10.00 feet and an arc length of 15.71 feet to a point;
2. North 78 degrees 13 minutes 19 seconds East a distance of 68.94 feet to a point;
3. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 15.72 feet to a point;
4. South 11 degrees 43 minutes 16 seconds East a distance of 12.10 feet to a point;
5. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 14.96 feet to a point;
6. South 73 degrees 59 minutes 51 seconds West a distance of 69.11 feet to a point;
7. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 16.45 feet to a point;
8. North 11 degrees 46 minutes 41 seconds West a distance of 17.19 feet to the point of beginning.

Containing an area of 0.07 Acres.

DESCRIPTION OF CONSERVATION EASEMENT "D2"

ALL that certain piece or parcel of land situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York, being more particularly bounded and described as follows;

BEGINNING at a point the following 2 courses and distances from the intersection of the easterly side of Ramsey Road with the northerly side of Precision Drive:

1. North 78 degrees 13 minutes 19 seconds East a distance of 426.72 feet to a point;
2. South 11 degrees 46 minutes 41 seconds East a distance of 71.30 feet to the point of beginning;

THENCE from said point of beginning the following 14 courses and distances through SCTM parcel District 0200, Section 554, Block 3, Lot 4.46;

1. South 78 degrees 13 minutes 19 seconds West a distance of 30.25 feet to a point
2. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 4.11 feet to a point;
3. Along the arc of a curve to the left having a radius of 10.00 feet an arc length of 4.59 feet to a point;
4. South 75 degrees 27 minutes 07 seconds West a distance of 6.92 feet to a point;
5. Along the arc of a curve to the left having a radius of 10.00 feet an arc length of 4.85 feet to a point;
6. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 10.33 feet to a point;
7. Along the arc of a curve to the right having a radius of 69.50 feet an arc length of 41.28 feet to a point;
8. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 22.80 feet to a point;
9. North 88 degrees 26 minutes 17 seconds West a distance of 6.96 feet to a point;
10. South 82 degrees 05 minutes 57 seconds West a distance of 62.99 feet to a point;
11. South 85 degrees 05 minutes 05 seconds West a distance of 8.98 feet to a point;
12. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 14.51 feet to a point;
13. North 11 degrees 46 minutes 41 seconds West a distance of 16.33 feet to a point;
14. Along the arc of a curve to the right having a radius of 10.00 feet an arc length of 15.71 feet to the point of beginning.

Containing an area of 0.08 Acres.

EXHIBIT D

**BROOKHAVEN NATIONAL LABORATORY LETTER TO CENTRAL PINE
BARRENS JOINT PLANNING & POLICY COMMISSION DATED JANUARY 6, 2022**



Building 860
P.O. Box 5000
Upton, NY 11973-5000
Work 631 344-3477
Cell 631 504-8614
remien@bnl.gov

managed by Brookhaven Science Associates
for the U.S. Department of Energy

Ms. Judy Jakobsen
Deputy Director
Central Pine Barrens Joint Planning & Policy Commission
624 Old Riverhead Road
Westhampton Beach, NY 11978

January 6, 2022

**SUBJECT: Brookhaven National Laboratory (BNL)/Department of Energy (DOE)
Groundwater Remediation in the Industrial Park south of BNL**

Dear Ms. Jakobsen:

Thank you for taking the time to speak with us on December 29th regarding the Brookhaven National Laboratory (BNL)/U.S. Department of Energy (DOE) Groundwater Remediation Project located in the industrial park south of BNL in association with the planned development of property on which a portion of this system is located. A map showing the planned development (approximately 48 acres) in relation to our remediation system wells and infrastructure is attached.

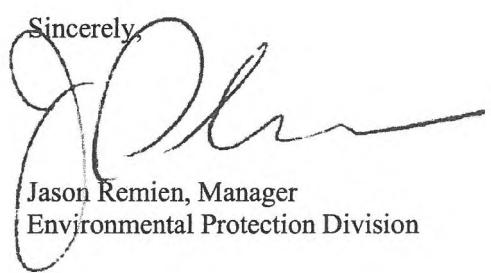
BNL/DOE constructed a groundwater remediation system in this area beginning in 1999 to remediate volatile organic compound (VOC) contamination originating from BNL and restore groundwater quality under a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Record of Decision (ROD). The CERCLA cleanup program at BNL is administered through an Interagency Agreement (IAG) among DOE, the U.S. Environmental Protection Agency (EPA), and the New York State Department of Environmental Conservation (NYSDEC). Monitoring and maintenance of this treatment system and associated wells is ongoing until such time cleanup goals are met.

An access agreement between Ron Parr/North Fork Bank and DOE preceded the construction, operation, maintenance, and monitoring of groundwater remediation in the area. This agreement was for a 20-year duration and expired in 2018. We are currently trying to negotiate an agreement with the new property owner, AVR Realty Corporation. Our infrastructure (piping, wells, electric and communications) on the 48-acre parcel is at the southern edge of the property and within the setback area for the Long Island Railroad property immediately adjacent and to the south. The infrastructure was sited in this area to mitigate any impact on future development in this area. The attached map shows the planned development by AVR Realty for this property and our infrastructure is highlighted in yellow.

AVR Realty has indicated to us that this infrastructure is impacting approximately ½ acre of their planned development based on the area cleared by BNL/DOE to construct this portion of the system. We are requesting that the Pine Barrens Commission consider providing credit for this cleared area as open space based on our intention to revegetate and restore the area to its natural state upon completion of our groundwater restoration activities. The Pine Barrens Commission previously granted a similar request where BNL/DOE conducted environmental restoration activities on another parcel (just southeast of this location) also owned by AVR Realty.

If you have any questions or require additional information, please call me at (631) 344-3477.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Remien".

Jason Remien, Manager
Environmental Protection Division

Enclosure: as stated

cc:

R. Gordon, BHSO
G. Granzen, BHSO
M. McCann, Esq. BHSO
G. Olson, BHSO
J. Anderson
S. Coleman
W. Dorsch
A. Engel
T. Green
R. Howe
V. Racaniello
A. Troutman, Esq.
File: GW 59.1.22

EXHIBIT E
CENTRAL PINE BARRENS JOINT PLANNING & POLICY COMMISSION
RESOLUTION

The undersigned, Executive Director of the Central Pine Barrens Joint Planning and Policy Commission, hereby certifies that, at a regular meeting of the Members of the Commission, duly called and held on January 19, 2022, the following resolution was adopted and that the same is in full force and effect:

Brookhaven National Lab groundwater remediation in Brookhaven R & D Plaza

Summary: Ms. Hargrave discussed that the Brookhaven National Lab groundwater remediation project that is located on the RD Industrial project site in the Brookhaven Industrial area that is south of BNL and the LIE. BNL indicated the remediation infrastructure has resulted in some clearing on the RD Industrial site of approximately 1/2 acres. They are requesting the Commission consider providing credit for the cleared area as open space based on their intention to revegetate and restore the area to its natural state upon completion of the groundwater restoration activities.

The motion was made by Mr. Romaine and seconded by Mr. Schneiderman to determine the activity is environmental restoration and is non-development pursuant to the definitions in the Act. The motion was approved by the four members present.

WITNESS my hand this 6th day of May, 2022, at Westhampton, New York.



Judy Jakobsen