



Central Pine Barrens Joint Planning and Policy Commission
Commission Meeting of May 15, 2024
Wertheim National Refuge, Shirley

Adopted Findings Statement and Decision for
Compatible Growth Area Hardship Waiver Application of
Riverside Sewage Treatment Plant
Riverside, Southampton Town
Suffolk County Tax Map Numbers
900-141-1-9.014; 9.017; 9.025; 9.029; 9.030; 9.031; and 9.032

State Environmental Quality Review Act
Certificate of Findings to Approve

This notice is issued pursuant to the State Environmental Quality Review Act (SEQRA) and its implementing regulations. This findings statement has been prepared pursuant to the requirements of SEQRA's regulatory requirement that no agency shall make a decision on an action which has been the subject of a Final Environmental Impact Statement (EIS) until a written findings statement has been prepared concerning the facts and conclusions of the Draft and Final EIS and any supplemental EIS relied on to support its decision. The Town of Southampton Town Board is the Applicant and lead agency pursuant to SEQRA for this Project. The Central Pine Barrens Joint Planning and Policy Commission is an involved agency.

This is the Commission Findings Statement on the Project.

I. The Project

Southampton Town, the Applicant, owns property located in Riverside hamlet, south of Flanders Road (NYS Route 24), in the industrial subdivision known as Southampton Enterprise Zone, in the Town of Southampton. The property is in the Light Industrial 40 (LI 40) Zoning District.

The Project is the development of the Riverside Sewage Treatment Plant (STP), a centralized tertiary level wastewater treatment facility using Sequence Batch Reactor (SBR) or Membrane Bio-reactor (MBR) technology. The STPs maximum capacity is 800,000 gallons per day (gpd). STP effluent from existing and future land use development in Riverside will be treated by the Project. A plan titled STP Concept Plan prepared by Nelson, Pope and Voorhis last dated November 17, 2023 depicts the Project.

The Applicant requires the Commission's approval because the Project is in the Compatible Growth Area of the Central Pine Barrens as defined by the Long Island Pine Barrens Protection Act of 1993 and the activity constitutes development as defined in Article 57 of the New York State Environmental Conservation Law. The Project does not conform with the Vegetation Clearance Limit Standard, 5.3.3.6.1, outlined in the Comprehensive Land Use Plan (the Plan) and implemented in the Town Code. A hardship waiver is required to clear more than the maximum allowable limited listed in the Plan.

The Project Site contains 11.45 acres. The entire property is covered with natural vegetation except for 0.33 acres of existing road area. Seven separate tax parcels contain the Project Site. The parcels are identified as Suffolk County Tax Map Numbers 900-141-1-9.014; 9.017;

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9.025; 9.029; 9.030; 9.031; and 9.032.

The Project will include construction of a 29,484 square foot one-story building. A system of leaching pools and other infrastructure will be developed in the remaining area.

Four pump stations will be developed in the road right of way in the hamlet outside of the Project Site. Each pump station is 1,045 square feet. A force main will be constructed in a privately owned parcel adjacent to the Project Site and identified as tax lot 900-139-3-10.2.

Revegetation with maintained and mowed grasses will occur over the leaching system for uptake, evaporation, transpiration and direct leaching of precipitation into the ground as well as the collection and subsurface recharge of roof runoff into drywells or stormwater leaching pools.

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. The Commission has jurisdiction over development in the Central Pine Barrens area as such term is defined in the Act. Development includes 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.” In 1995, the Commission adopted the Act mandated Comprehensive Land Use Plan (the Plan). In the Plan are Standards and Guidelines to govern development in the Central Pine Barrens.

The Act provides the Commission jurisdiction to review and approve the hardship waiver. Development must conform with the Plan’s Standards or receive an extraordinary hardship exemption to proceed.

III. The Project Site and Materials Submitted to the Commission

On January 3, 2024 the Applicant submitted to the Central Pine Barrens Joint Planning and Policy Commission a Compatible Growth Area Hardship Waiver Application for the Project.

The Applicant provided a cover letter, hardship waiver application with a Concept Plan, review of Standards of the Comprehensive Land Use Plan, Town Board resolutions to support the Application submission, a Supplemental Draft Generic Environmental Impact Statement (SDGEIS) and a Full Environmental Assessment Form Part 1.

IV. Public Process

On January 17, the Commission scheduled a Public Hearing for February 21. At the Public Hearing, a Commission Staff Report with seven Exhibits A through G was introduced into the record. The Staff Report defined a Study Area that extends one half mile from the site in all directions that identifies the land uses and zoning categories in this area. Commercial and industrial development is present in the immediate area. Single family residential uses are development in the hamlet and Phillips Avenue Elementary School is adjacent to the south of the Enterprise Zone.

At the February 21 hearing, the Commission received sworn testimony from the Applicant and a letter providing clarification on the hardship request to relieve conformance with the Vegetation Clearance Limit Standard 5.3.3.6.1. The Applicant provided a PowerPoint presentation at the Hearing.

Members of the public spoke at the hearing including Riverhead Town representatives including Supervisor Hubbard, Dawn Thomas and Jeffrey L. Seeman, CEP, a consultant to the Riverhead Town Board and Commissioners of the Riverhead Sewer District. Mr. Seeman submitted written comments dated February 21 and verbally expressed Riverhead's interest in the Riverside Sewer District with a request to have the Suffolk County Facilities in Southampton Town that generate 100,000 gpd of wastewater be disconnected from the Riverhead Sewage Treatment Plant and be connected to the Project. A stenographic transcript was made of the hearing. After the hearing, the Applicant submitted Project maps including alternatives and a map of property ownership and phased development. A 14 day written comment period was provided. No other written comments were received.

On March 11, the Applicant provided an updated summary of review of the Project's conformance with the Plan and addressed comments in the Staff Report.

At the regular meeting of the Commission on March 20, the Commission adopted a Sense Resolution by 4 to 1 vote with Riverhead Town in objection. The Sense Resolution indicated that the Commission anticipates that the completion of the Project's review by the Town will not reveal any factor that cause the Commission's understand of the need for the Project, the rationale for the hardship exemption, or its environmental impacts to materially change.

On April 17, the Applicant requested and the Commission extended the decision deadline to May 15 to complete the SEQRA process including preparation and adoption of the Findings Statement on April 24.

V. The Study Area and State Historic Resources Determination

The Staff Report defined a Study Area which analyzed, in general the land use and ownership of property within a one-half mile radius of the Project Site. The Study Area boundaries encompass approximately the boundaries of New York State Route 24 (SR 24, Flanders Road) and the surface water and wetlands of Peconic River to the north, County Route 105 to the east, the residentially developed hamlet of Riverside to the south and the traffic circle to the west of the Project site. North of SR 24 is outside of the Central Pine Barrens.

The Project Site is in a commercial industrial subdivision known as Southampton Enterprise Zone. The Enterprise zone was a 34-acre property subdivided, in 2004, into 22 lots. Special trade contractor uses are developed in the Enterprise Zone while other lots in the subdivision are presently vacant. The Town assembled seven undeveloped wooded lots to create the Project Site for the Project.

The Project Site is naturally vegetated with large pitch pine trees and an understory of ericaceous shrubs including blueberry. Bayberry and scrub oak are also present. Other areas contain pine needles with limited understory vegetation. Bearberry and a variety of lichens are present on the east side of the site where the road will be realigned. Trails cross the rear area of the project site. Debris and encampments are present in several areas.

Land uses immediately adjacent to the site include a bank, Suffolk Federal Credit Union to the north on the corner of the Enterprise Zone Road and Flanders Road and Southampton Head Start.

To the west is a single-family residence and a vacant, 12.5-acre property where the force main will be constructed. Phillips Avenue Elementary School property is situated to the south of the site.

Beyond the site's immediate boundaries, commercial uses are developed on the CGA side of SR

24 including a gas station, scuba diving shop and a storage facility. Residential development is present on either side of SR 24 in the Study Area. Single-family residential development is the primary land use in the study area. Two mobile home developments are present in the hamlet in proximity to the site; one to the north of SR 24 and one to the southwest of the site on CR 104.

Industrial and commercial zoning districts in the Study Area include Highway Business on SR 24 and Shopping Center Business on CR 104. Single-family residence and the Mobile Home Subdivision residential zoning district are also present. The Residence-15 zoning district is the most prevalent in the Study Area. Other low density residential districts include R-20 and R-80 on the less densely developed east side of the Study Area.

VI. Other Required Approvals

Other required approvals include Town permits, creation of a sewer district for taxation purposes, NYSDEC SPDES permit and review and approval of a SWPPP permit, Suffolk County Department of Health Services Articles 6, 7 and 12 and approval of the STP technology and facility.

The Commission requested information the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) on whether the Project would impact State listed historic or prehistoric resources. OPRHP replied on February 28 that the Applicant had submitted the referral and the Office was awaiting the submission of a revised Phase IA archaeological report. Prior to development, a conclusory letter must be submitted on the SHPOs review of the Project and potential impacts of the Project on listed historic, cultural and archaeological resources. This decision will be subject to obtaining a conclusion of no impact from the SHPO.

VII. Commission Review of Applicant Material and the Act's Extraordinary Hardship Waiver Criteria

In 2015, Southampton Town embarked on and completed a plan that envisioned the revitalization of Riverside. The New York State Environmental Quality Review Act (SEQRA) process commenced with the preparation and completion of a Generic Environmental Impact Statement (GEIS) and Findings Statement for the Riverside Revitalization Action Plan (RRAP). The RRAP expresses the vision and needs to improve economic and environmental conditions of this underserved community.

The Application states community benefits for Riverside include development of a centralized sewage treatment plant (STP) to have net positive ecological benefits of collecting, consolidating and treating existing and proposed sanitary effluent. Presently, effluent from developed land uses is captured in pre-existing nonconforming cesspools or conventional septic systems. Nitrogen concentration in recharge from conventional systems is generally 40 to 50 mg/l or less. The Project is expected to reduce nitrogen concentration in effluent discharged to groundwater to a standard of approximately 4.58 mg/l or less. The drinking water standard set by the EPA, NYSDOH and SCDHS is 10 mg/l. Tertiary level treatment in the Project will remove nitrogen and organic contaminants from wastewater and produce effluent that complies with this standard.

The Project will be developed in two construction phases. The maximum treatment capacity is 800,000 gallons per day (gpd). Phase 1 has 250,000 gpd set aside for existing development. New residential and commercial land uses are expected to generate 150,000 gpd. Phase 2 will accommodate the remaining capacity of 400,000 gpd.

In November 2023, Southampton Town commenced the SEQRA process with the coordination review of

a Supplemental Draft Generic Environmental Impact Statement (SDGEIS) for the Project. The Project is classified as a Type I Action. The Commission is an Involved Agency and deferred Lead Agency status to Southampton with comments indicating that the Project constitutes development activity pursuant to the Act. Therefore, it must conform with the Plan as implemented by the Town Code. If the Project does not conform, it may be revised or a hardship waiver application must be submitted to the Commission, subject to review and discretionary decision.

On April 9 the Town adopted a Notice of Completion for the SFGEIS. On April 24 2024, Southampton completed the Findings Statement and the requirements of the SEQRA process.

The Commission's SEQRA Record contains materials including the RRAP DGEIS, FGEIS, Findings Statement and the Supplemental DGEIS, FGEIS and Findings Statement for the Project.

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

Pursuant to the Act, to determine whether an applicant has demonstrated the existence of a hardship, the Commission shall consider, among other things, the criteria set forth in New York State Town Law §267-b and determine whether the Project is consistent with the purposes and provisions of the Act and whether the Project will result in a substantial impairment of the resources of the Central Pine Barrens area and consider the criteria in ECL §57-0123(3)(b).

The Commission has considered all of the materials submitted in connection with the application including the transcript of the public hearing.

The Applicant alleges that it cannot realize the RRAP and its economic, environmental, and social benefits without the Project. Funding for the Project is contingent on obtaining all required approvals including this Hardship.

The Application states that the Project is essential to support revitalization efforts envisioned by the Town in the RRAP. The Project is expected to remove outdated septic systems that lack treatment capabilities and improve groundwater quality conditions through the development of centralized wastewater treatment infrastructure for the hamlet's developed land uses and future uses on a site surrounded by industrial uses.

The Application provided an evaluation of alternatives including alternative treatment options and alternative sites.

Reasonable return

The Applicant assembled and acquired the parcels in the Project Site with the intention to progress an integral infrastructure development element of the vision and planning of the effort to revitalize Riverside. A significant amount of time and effort has been expended completing studies including the environmental review, the Riverside Revitalization Sewage Treatment Plan Clean Water State Revolving Fund Engineering Report and the Value Planning Review to study and select the suitable STP technology of this scale and preparation and submission of funding applications to New York State Environmental Facilities Corporation seeking a commitment of funds for infrastructure development.

Pursuant to Town Law §267-b(2)(b)(1), unlike a private applicant, municipalities may not have pecuniary interest in developing land. The project site was identified as a reasonable location for a sewage treatment plant based on the reasons identified in the alternatives analysis and SEQRA Record. It was purchased for this purpose.

Uniqueness

The Commission finds the Applicant has established the existence of a hardship because the Project is unique and does not apply to a substantial portion of the district or neighborhood. The Applicant's ownership of multiple parcels assembled for the Project is unique and results in sound planning to develop infrastructure in an industrially zoned and subdivided land in the hamlet where limited vacant unprotected land is available. Providing the infrastructure to serving the entire hamlet's wastewater needs is unique to the Applicant, a public government agency. The size and scale of the Project is unique in the Applicant's pursuit of public EFC funds to provide the opportunity to support and treat the wastewater generated by hamlet residents, business, schools, and other existing and future land use development. Centralized tertiary level sewage treatment is expected to remove outdated septic systems and improve groundwater quality through reduced nitrogen concentration in groundwater recharge as compared to effluent concentrations recharged in current individual non-treatment and decentralized systems.

Pursuant to Town Law §267-b(2)(b)(2), the Commission finds that the hardship is unique to the Project Site due to being owned by the Town, its location and consistency with zoning and land use, planning efforts and available of funding to support this significant undertaking to develop infrastructure on a hamlet-wide scale to facilitate environmental, economic and social revitalization efforts. The Project Site is surrounded by industrial uses and in an industrially zoned subdivision.

Essential character

The Applicant, through the SEQRA Record, has reviewed, analyzed and mitigated adverse environmental impacts pursuant to the SEQRA regulations. To achieve the objectives of the RRAP, the Applicant through its SEQRA Record explored alternatives and selected the Project Site to meet its objectives while minimizing adverse impacts on the character and neighborhood. The Project Site is out of direct view of the public. It is in an industrial/commercial subdivision and is consistent with the industrial zoning category regulations on the Project Site. Direct public views of the Project Site are avoided. The Project is more than 300 feet in distance from Flanders Road, a scenic corridor defined in Volume 2 of the Plan. A 25 foot wide natural wooded perimeter buffer on the Project Site is expected to provide vegetative screening the Project from public views. Plantings will be installed to naturally screen infrastructure to the greatest extent practicable.

The Commission finds the Applicant has established the existence of a hardship because the Applicant investigated and evaluated alternatives including alternative sites and development plans to achieve the objectives of the RRAP. The Applicant avoided development of the Project in the less developed Core Preservation Area, in areas of steep slopes and in significant ecological communities including wetland habitats to minimize potential adverse environmental impacts.

The Project is situated in the CGA where appropriate patterns of compatible residential, commercial and industrial development are encouraged to accommodate regional growth influences in an orderly way, pursuant to the Act. Through centralized sewage treatment and removal of outdated individual septic systems, the Project discourages piecemeal and scattered development in the CGA and development is planned in a compact, efficient and orderly pattern, as supported in the Act. The Project will treat sewage from existing and future development in the CGA in Riverside and it achieves the Act's goal to protect groundwater quality by utilizing treatment capacity and discharging wastewater to groundwater with a significantly lower nitrogen concentration than presently occurs due to the presence of existing individual outdated systems without treatment capacity.

The Project Site was selected based the SEQRA Record including the review of alternatives, Town ownership of vacant unprotected property, the limited supply of land available for development and the

presence of environmental constraints in the hamlet. The Project is designed for compact, efficient and orderly development in the CGA and it is consistent with the purposes and provisions of the Act for groundwater resource protection. The Project is consistent with the industrial land use development in the Enterprise Zone and the industrial zoning district that regulate development of the Project Site.

Pursuant to Town Law §267-b(2)(b)(3), the Commission finds that the hardship avoids impacts to the essential character of the neighborhood which is a mix of high density residential and non-residential uses. The Project will minimize the environmental impacts of these uses by reducing the amount nitrogen discharged through conventional or antiquated septage systems or both. The Project supports the goals and objectives for the CGA to accommodate compact, efficient and orderly development while preserving groundwater quality by facilitating land use patterns developed through a town centric process rather than as an artifact of older zoning regimes. The Town assembled industrially zoned land to facilitate infrastructure development to serve the entire hamlet's wastewater needs, existing and future land uses, in an area where limited amount of vacant unprotected land exists. A 25 foot wide natural perimeter buffer is provided to reduce visual impacts on adjacent land uses.

Self-created

The Commission finds the Applicant has established the existence of a hardship because the hardship has not been self-created. Limitations apparent in the SEQRA Record and analysis and evaluation for the Project to achieve the goals envisioned in the RRAP narrowed the site selection process. These include a limited amount of vacant land present for the Project in the hamlet; avoiding strictly regulated habitat including regulated wetlands; existing development in the hamlet presently at or nearly at build out; significant amount of protected land and a limited amount of unprotected and vacant land for the Project; Town ownership of land and a site that is large enough to achieve the size and scale of the Project.

The Project is not inconsistent with the purposes and provisions of ECL Article 57 Section 57-0123.3(b) and would not result in substantial impairment of the resources of the Central Pine Barrens area. The Project supports the protection of the of groundwater quality, a goal of the Act and stated in Section 57-0121.4(b) of the Act through the centralized treatment of wastewater and expected improvement in the reduction of elevated nitrogen concentrations in groundwater due to the hamlet-wide presence of existing of conventional septic systems. It discourages piecemeal and scattered development to develop a centralized treatment facility to accommodate existing and future development in the hamlet envisioned in the RRAP and implemented through zoning code amendments since 2015. It accommodates regional growth by advancing the goals of the RRAP and supporting improved economic and environmental conditions through development of wastewater treatment infrastructure that seeks to protect the pine barrens environment including groundwater quality from individual and cumulative adverse impacts. Sewage treatment is expected to reduce nitrogen concentrations discharged to groundwater. The Project provides an opportunity to advance the goals of the RRAP and support the growth through improved environmental conditions and the implementation of zoning code amendment that benefit the hamlet.

Pursuant to Town Law §267-b(2)(b)(4), the Commission finds that the hardship is not self-created since the Applicant is charged with developing infrastructure to accommodate the treatment of wastewater on a hamlet wide scale. There are few parcels in the planning area that can be developed with the facility. While the needs of this facility still exist through the Town's SEQRA Record and planning effort for more than nine years, the beneficial improvements that support the goals of the CGA including reduced nitrogen concentration to groundwater through sewage treatment is supported compared to the additional acreage cleared for this purpose.

IX. Mitigation

Construction of the Project will occur in two phases to keep intact natural vegetation unless and until it needs to be removed. After construction of Phase I, clearing to construct Phase 2 will not occur unless and until it is necessary. This is to keep the natural vegetation in its natural condition in Phase 2 until it is necessary to be cleared for the Project.

Revegetation will occur in leaching areas. Native grasses such as big bluestem, switchgrass and Pennsylvania sedge will be planted because periodic mowing and maintenance is necessary. Planting will exclude trees and shrubs with extensive root systems that are not practical for and can impact sanitary leaching areas. According to the SEQRA Record, “green” ground cover will be planted to support plant uptake, evaporation, transpiration and direct leaching of precipitation into the ground.

X. Commission Determinations on the Hardship

The above recitals are incorporated herein and made a part hereof.

Mitigation is provided to the greatest extent while meeting the goals of the Project and Town’s foundational commitment to the full implementation of the RRAP. The Project will conform with Standards of the Plan except for Standard 5.3.3.6.1 Vegetation Clearance Limits.

The Commission hereby determines that the Applicant has demonstrated it meets and satisfies the criteria for a CGA Hardship pursuant to the Act because the Project is unique and is designed in a compact and efficient pattern on a Project Site in an industrial zoning district and in a commercial/industrial subdivision. The Project will not alter the essential character of the neighborhood and does not apply to a substantial portion of the neighborhood.

The Commission hereby determines that Applicant has demonstrated it meets and satisfies the criteria for a CGA Hardship pursuant to the Act, that the alleged hardship has not been self-created because the Project is proposed to satisfy existing and projected development in the hamlet of Riverside as envisioned in the RRAP and analyzed in the SEQRA Record.

XI. Commission Findings and Decision

The SEQRA Record is incorporated by reference. The Commission’s Findings rely on the SEQRA Record to:

- (1) consider the relevant environmental impacts, facts and conclusions disclosed in the EIS;
- (2) weigh and balance relevant environmental impacts with social, economic and other considerations;
- (3) provide a rationale for the agency’s decision;
- (4) certify that the requirements of this Part have been met;
- (5) certify that consistent with social, economic and other essential considerations from among the reasonable alternatives analyzed, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision, those mitigation measures that were identified as practicable.

XII. Conformance Review of Project with Plan Standards and Impact on Goals of the Plan

Commission review of the Application requires a Project to demonstrate conformance with the Standards set forth in Volume 1, Chapter 5 of the Plan. If the Project does not conform with one or more provisions, and is not modified to conform, the Act authorizes the Commission, by majority vote, to waive strict conformance with the Plan upon finding that such waiver is necessary to alleviate a demonstrated hardship.

Standards that do not apply to the Project are noted in the review. No wetlands exist on site; the site is not within the jurisdiction of the Wild, Scenic and Recreational Rivers Act (S5.3.3.4.3) and no agricultural activity is proposed.

This review identifies where conformance is deferred to other agencies including the Suffolk County Department of Health Services and New York State Department of Environmental Conservation (NYSDEC), that regulate uses and activities to protect public health, water and natural resources (e.g., wastewater treatment, storage of chemicals and stormwater management). The Applicant must adhere to applicable regulations and permit requirements of other agencies.

The following sections evaluate the potential impacts of the Project based on the SEQRA record and the complete information submitted by the Applicant and conformity with the Plan's Standards. The Applicant will obtain any and all applicable permits to conform with Standards of the Plan.

A. Water Resources

The Plan's Standards related to water resources are identified below. Also included is a discussion of the Project's potential impacts to water resources, mitigating measures and conformance to the applicable standards.

1. Nitrate-nitrogen – Conformance with Standards

a. Standard 5.3.3.1.1 Suffolk County Sanitary Code Article 6 compliance

The Project is the development of a sewage treatment plant. It is expected that the Applicant will satisfy the procedural requirements of the SCDHS.

Conformance of the Project with this standard is conditioned on the Applicant obtaining SCDHS approval of Article 6 compliance.

b. Standard 5.3.3.1.2 Sewage treatment plant discharge

The application states, "It is not practical to locate the Project outside of and downgradient of the Central Pine Barrens." A variety of alternatives were evaluated including alternative treatment options and disposal alternatives such as constructed wetlands and expanding the Riverhead STP to accept wastes from Riverside. The Project Site is on the border of the Central Pine Barrens boundary and downgradient to the greatest extent practicable. Placing the STP facility closer to Peconic River, in and around wetlands adjacent to the Peconic River and other alternatives were not feasible for the Project.

The Applicant must satisfy the requirements of the SCDHS including the type of STP facility, technology and extent of treatment capabilities. The conformance of

the Project with this standard is conditioned on the Applicant obtaining SCDHS approval of the sewage treatment plant.

c. *Standard 5.3.3.2.1 Suffolk County Sanitary Code Articles 7 and 12 compliance*

The Project is required to satisfy the requirements of the Suffolk County Sanitary Code as per this standard. The conformance of the Project with this standard is conditioned on the Applicant satisfying SCDHS compliance with the Sanitary Code.

2. Wellhead Protection - Conformance with Standards

a. *Standard 5.3.3.3.1 Significant discharges and public supply well locations*

No significant discharges are proposed in groundwater contributing areas of existing public water supply well field locations. The Project conforms with Standard 5.3.3.3.1.

3. Wetlands, Surface Waters and Stormwater Runoff- Not Applicable

a. *Standard 5.3.3.4.1 Nondisturbance buffers – Not Applicable*

b. *Standard 5.3.3.4.2 Buffer delineations, covenants, and conservation easements – Not applicable*

c. *Standard 5.3.3.4.3 Wild, Scenic and Recreational Rivers Act compliance – Not applicable*

4. Stormwater Runoff – Conformance with Standards

a. *Standard 5.3.3.5.1 Stormwater recharge*

Stormwater runoff will be retained on the Project Site and managed through recharge to groundwater and containment systems.

To conform with this Standard the Project must comply with an approved Stormwater Pollution Prevention Plan (SWPPP). The conformance of the Project with this Standard is conditioned on the Applicant obtaining all necessary approvals for the SWPPP.

5. SEQRA Findings - Water Resources

The Project anticipates improvement or reduction in the nitrogen concentration in groundwater through centralized tertiary wastewater treatment. Existing development utilizing outdated septic systems with no treatment capacity will connect to the STP. Conventional systems generally discharge up to 60 mg/l nitrogen concentration in effluent. The Project will treat effluent to comply with the State and Federal drinking water standard of 10 mg/l. The STP nitrogen concentration in effluent discharge to groundwater is expected to achieve 4.58 mg/l. New development will also be connected to the STP.

The vision of the RRAP supports hamlet revitalization through development of a centralized wastewater treatment system. The Project facilitates development opportunities to increase housing stock and improve economic and environmental conditions in the hamlet.

Surface water and groundwater quality are protected by New York State funding of wastewater infrastructure. The Project will comply with Federal, State and County water quality standards and resource protection.

The Project requires Suffolk County Department of Health Services approval. Other applicable permits and approvals that are required must be obtained including for facilities that discharge wastewater to groundwater and other water resource protection measures.

The Project will improve the nitrogen concentration in recharge and will not result in significant adverse impacts on groundwater resources.

B. Natural Resources

The Central Pine Barrens Development Standards concerning natural vegetation and plant habitat are set forth below along with a discussion on potential impacts to natural vegetation and plant habitat, mitigating measures and conformance with applicable standards and guidelines.

1. Natural Resources - Conformance with Standards

a. Standard 5.3.3.6.1 Vegetation Clearance Limits

The Project does not conform with this Standard because it clears the Project Site in its entirety. To conform with the Standard, the maximum clearing limit, the total clearing allowed over 7 lots is 6.6 acres or 57% of the Project Site. The Applicant seeks a hardship waiver to clear an additional 4.78 acres in excess of the allowable amount, removing a total of 11.11 acres of natural vegetation for the Project.

The Project Site clearing limit is based on the commercial/industrial zoning district category allowing a maximum of 65%. However, in this matter, the subdivision map dictates the clearing limits on all of the lots listed in the Enterprise Zone the subdivision containing the Project Site.

The SEQRA Record indicates the Applicant acquired 40.6 acres of natural open space, in Riverside, outside of the Central Pine Barrens. While this open space acquisition is important, and absent acquisition, the property may have been developed in the future, the property is not added to or part of a non-contiguous cluster or the Project Site. Thus, it is not considered mitigation for the Project waiver.

Phased clearing and construction of the Project will occur. The Phase 1 clearing envelope will be delineated and clearing in Phase 1 occur first. A marker such as a split rail fence will be installed to delineate the two construction phases to retain the area in Phase 2 until it is needed to complete the Project.

The Phase 2 area will remain in its natural state unless and until Phase 2 STP capacity is needed. The purpose of a phased clearing plan is to keep the natural

vegetation and habitat for use by flora and fauna on the Project Site for as long as possible unless and until it is necessary to develop Phase 2.

A 25 foot wide natural perimeter buffer is planned to remain in its existing natural condition with tall pitch pine and other pine barrens vegetation during and after the Project.

A project limiting fence is proposed during clearing to ensure that areas remain undisturbed including the 25 foot wide natural buffer. It should allow for the free movement of wildlife. When construction is complete a split rail or similar type fence with wildlife access should be installed on the perimeter to protect the natural buffer.

b. Standard 5.3.3.6.2 Unfragmented open space

No contiguous or non-contiguous open space is provided in the Project Site. If the Project Site were larger, the Project may conform and avoid a waiver. A larger Project Site may compensate for the amount excessively cleared by the Project and avoid the need for clearing waiver. However, no open space or additional land was added to the Project Site to avoid the hardship.

The SEQRA Record refers to the Applicant's recent acquisition of 40.6 acres of open space in the hamlet, outside of the Central Pine Barrens boundary and not directly related to the Project except in the alternatives analysis.

The Project represents sound planning effort and environmental benefits to improve groundwater conditions related to sewage from developed land uses discharged to groundwater through the development of centralized wastewater treatment infrastructure. The reduction in the concentration of nitrogen in groundwater is suggested as more than 40 times less than the concentration recharged in individual sanitary systems that are present in the hamlet. The centralized treatment of wastewater is considered an environmental benefit that outweighs the adverse impacts created by the Project.

c. Standard 5.3.3.6.3 Fertilizer-dependent vegetation limit

No more than 15% or 1.7 acres of the Project Site will be placed in fertilizer-dependent vegetation. By limiting the application of fertilizer, the Project minimizes adverse impacts to ground and surface water resources. For these reasons the Project conforms with this Standard.

d. Standard 5.3.3.6.4 Native Plantings

Native plantings will be installed to landscape the Project Site. Salvaging and reusing soils and vegetation including trees, shrubs and natural groundcover that is removed during construction is strongly encouraged to revegetate the site in areas that need to be landscaped. Trees and shrubs cannot be planted in leaching field areas but may be useful on the perimeter to screen the site. Native groundcovers including bearberry, lichens and mosses as well as grasses may be reused in areas that need to be regularly mowed and maintained.

2. Species and Communities of Special Concern

Standard 5.3.3.7.1 Special species and ecological communities

The Applicant commits to protect the New York State and Federally listed Endangered Species, the Northern Long-eared Bat and its habitat. Therefore, clearing will occur only from December to February of any given year to recognize and protect this species. No clearing will occur from March to November of any given year.

Conformance of the Project with this Standard is conditioned on the Project's adherence to regulatory protection requirements of NYSDEC and Southampton Town.

3. SEQRA Findings – Natural Resources

The size and scale of the Project requires use of the entire Project Site except for a 25 foot wide natural perimeter buffer. If the Project Site were larger or large enough to comply with the clearing limit standard, no hardship relief from this standard would be necessary.

The waiver request is to clear in excess of the amount permitted on the Project Site, as per the combined limits in the Enterprise Zone Subdivision Map. The Southampton Enterprise Zone Subdivision Map is used in this matter to establish the allowable clearing limit in the Project Site. The total clearing limit for the seven lots in the Project Site is 57% or 6.33 acres. The Project requires the 100% clearance of the Project Site, which is an excess of 43% or 4.78 acres.

No open space, contiguous or non-contiguous, is provided but it is encouraged if and when land acquisition potential exists in the hamlet. Southampton Town's acquisition of 41 acres of non-contiguous land in Riverside, not in the Central Pine Barrens, while important as natural open space cannot be offered as mitigation for the Project or to offset direct environmental impacts of habitat removed for the Project.

The SEQRA Record refers to 35% of the hamlet as protected as public open space. Since the open space acquisitions are unrelated to the Project, they are not recognized as mitigation for the Project.

The Commission finds that the Project is consistent with the goals and objectives for the CGA outlined in the Act and a hamlet-wide wastewater infrastructure development Project overrides the importance of the protection of natural vegetation on this Project Site for the reasons discussed in the Record. Adverse environmental impacts are minimized and balanced with other considerations as defined in SEQRA and impacts on the goals of the Plan are minimized to the maximum extent practicable.

D. Coordinated Design for Open Space Management

1. Open Space Dedications Standard Conformance

Standard 5.3.3.9.1 Receiving entity for open space dedications – Not Applicable

The Applicant's recent open space acquisition of 40.6 acres is not added to the Project

Site and is not in the Central Pine Barrens. Although important as an open space acquisition, it is not recognized as mitigation or part of the Project Site for this Project. The Applicant explained it will remain as open space, protected from land use development and wetland habitat will be restored. For those reasons, this Standard is not applicable. The Commission encourages the Town to acquire property as natural open space, contiguous or non-contiguous to the Project Site and in the Central Pine Barrens, to mitigate the impacts of the Project and potentially avoid the need for a clearing hardship waiver.

2. SEQRA Findings – Coordinated Design for Open Space Management

The Commission finds that the Project will conform with these Standards. The Project's conformance ensures that adverse environmental impacts are minimized and balanced with other considerations as defined in SEQRA and impacts on the goals of the Plan are minimized to the maximum extent practicable.

E. Commercial and Industrial Development

Standard 5.3.3.12.1 Commercial and industrial compliance with Suffolk County Sanitary Code

The Project will conform with County Sanitary Code provisions that apply to industrial development and uses and intended to protect water and environmental resources from pollution and contamination.

XIII. Conclusion

The Commission incorporates by reference the Southampton Town SEQRA Record for the Project.

This Commission approval is a waiver for the Riverside STP as depicted in the SFGEIS Concept Plan prepared by Nelson, Pope and Voorhis last dated November 17, 2023, and in accordance with the SEQRA Record, subject to the following conditions:

Other agency approvals and permit requirements

The Project requires satisfaction of the requirements of other agencies including the Town of Southampton, Suffolk County Department of Health Services and the New York State Department of Environmental Conservation. The Applicant must seek and obtain other agency review and permit approvals, including but not limited to:

1. Suffolk County Department of Health Services approval for Article 6
2. Suffolk County Department of Health Services approval for the Sewage Treatment Plant
3. Suffolk County Department of Health Services for Articles 7 and 12
4. Southampton Town Engineer approval of the Stormwater Pollution Prevention Plan (SWPPP)
5. New York State Department of Environmental Conservation approval of the SWPPP
6. New York State Department of Environmental Conservation approval including a Stormwater Pollution Discharge Elimination System (SPDES) permit.

Conditions

1. Approval of a waiver to clear 100% the Project Site or 11.11 acres.
2. No change in the project without review by the Commission and subject to the provisions of ECL Article 57 and the Comprehensive Land Use Plan.
3. Avoid removal of large trees and natural vegetation wherever possible including areas that may serve as natural buffers to visually screen the facility. Flag trees to remain prior to site disturbance.
4. No disturbance of the Project Site unless and until all permits and approvals have been receiving including the conclusions of the Phase IA archaeological study.
5. Salvage and reuse natural plant material for use in landscaping and revegetating the site when and where feasible. Large trees or unique vegetation that intersect the clearing limit line should be favored for protection outside of the clearing envelope where feasible.
6. Prior to site disturbance, walk the Project Site to identify any nests of large raptors including owls, hawks, bald eagles, and osprey and any terrestrial animals including box turtles or other rare and unique wildlife.
7. Protect the New York State and Federally-listed Endangered species and its habitat the Northern Long-eared Bat (NLEB)
 - a. Clearing may only occur from December through February of any given year.
 - b. Avoid clearing from March to November of any given year.
8. Phased development
 - a. Submit a copy of the Phased development with plans and narratives outlining activities in Phases 1 and 2.
 - b. Show clearing envelopes in Phases 1 and 2 and any areas that will remain uncleared and undisturbed.
 - c. Show phased development within each separate phase, if applicable
 - d. Phase 1
 - i. Clearing may occur only in the limits of Phase 1.
 - ii. Clearing only in the timeframe from December to February of any given year
 - iii. Install a project limiting fence around the boundary of the Phase 1 construction site prior to clearing to avoid disturbance outside of this clearing envelope and to protect the area to remain natural including the 25 foot wide natural perimeter buffer.
 - iv. Clear only for Phase 1 after the Project receives all required approvals. No clearing may occur in advance of approvals and permits.
 - v. Retain the natural area in the Phase 2 development area unless and until it needs to be cleared.
 - e. Phase 2
 - i. Retain natural vegetation intact in Phase 2 unless and until development is necessary.
 - ii. Delineate area in Phase 2 to avoid disturbance during Phase 1
 - iii. Clearing may occur only in the limits of Phase 2
 - iv. Clearing only in the timeframe from December to February of any given year
 - v. Install project limiting fence in the Phase 2 clearing area if and when it occurs to avoid encroachment into the natural area including the 25 foot wide natural perimeter buffer.
 - vi. Install split rail fence around Phase 2 until clearing commences.
9. Ensure any fencing allows the free and unrestricted movement of wildlife.
10. Remove construction fencing when construction of each phase is complete.
11. Install permanent split rail fencing to protect natural areas and on the outside of the cleared area in each phase to limit encroachment into areas that will remain natural.

12. Submit a letter to the Commission office at least two days prior to site disturbance.
13. Submit a letter to the Commission office within one month after completion of the Project and issuance of the Certificate of Occupancy.
14. Activity including installation of a force main on the adjacent privately owned lot identified as 900-139-3-10.2 must be performed by directional drill. Clearing cannot exceed the clearing limit established in this decision. Record this decision against tax lot 900-139-3-10.2 in the Office of the County Clerk.
15. SPDES Permit. Prior to site disturbance satisfy the requirements of and obtain the State Pollution Discharge Elimination System (SPDES) permit.
16. Stormwater. Prior to site disturbance submit a copy of the approval of the Stormwater Pollution Prevention Plan (SWPPP) by the Town and/or NYSDEC
17. Amend and record the Southampton Enterprise Zone Subdivision map to reflect the merger of lots in the Project Site and any other lot modifications and realignment of the loop road.
18. This hardship is valid only for the project under review in this application. Any substantive changes require a new application including expansion of the project or substantial redesign is subject to Commission review discretion.
19. If at any time during construction or disturbance including clearing, archaeological or cultural resources or remains are uncovered, the Applicant must cease operations and report this to the Town and develop a plan for modifications to protect artifacts and resources. Obtain the SHPO determination prior to any site disturbance including soil and vegetation removal.
20. The Commission's approval is valid for 5 years from the Commission's date of approval. Phase 1 must be 90% complete by the time the end of this 5-year term occurs. If it is not, the Applicant must request an extension from the Commission, and the extension is subject to Commission review and approval of conditions at that time and regulations in effect at that time. An additional five years is provided for 90% completion of Phase 2.
21. The Project must conform to all other involved agency jurisdictions and permit requirements in effect on the Project Site.
22. Record a copy of this document including an 8.5"x11" black and white copy of the Site Plan in the Office of the Suffolk County Clerk and distribute to involved agencies.

XII. Conformance Determination and Findings

The Commission finds that the Project conforms with the Central Pine Barrens Standards for development except for the clearing limit standard, for which a hardship waiver is necessary. Based on the SEQRA Record and review of the Master Plan, no significant adverse impacts were identified as a result of the Project on water resources including surface waters and groundwater, natural vegetation and plant habitat, species and communities of special concern, soils, cultural, scenic and recreational resources.

The commission grants the hardship waiver pursuant to the provisions outlined in New York State Environmental Conservation Law § 57-0121(9) and § 57-0121(10).

The Commission certifies that in issuing this Findings Statement it has:

- 1) considered the relevant environmental impacts, facts and conclusions disclosed in the final EIS as they pertain and are within the purview of the Commission's review of the Assertion application for this Project.
- 2) weighed and balanced the relevant environmental impacts with social, economic and other considerations.
- 3) provided a rationale for its decision by the written facts and conclusions contained herein based on the Project's SEQRA Record and Hardship application.

- 4) certifies that the requirements of this Part have been met.
- 5) certifies that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures that were identified as practicable.

The Commission finds the adverse environmental impacts resulting from the Project are weighed and balanced by the Project design and its conformity with the Standards for land use development outlined in the Central Pine Barrens Comprehensive Land Use Plan, and therefore approves the design for the Project, subject to the conditions of approval contained herein.

The Commission, pursuant to 6 NYCRR Part 617.11, has prepared the Findings stated herein and shall cause it to be filed in accordance with 6 NYCRR Part 617.12(b).

COPIES OF THIS FINDINGS STATEMENT WILL BE SENT TO:

Environmental Notices Bulletin (ENB)
NYSDEC, Division of Environmental Permits, Albany
NYSDEC, Division of Environmental Permits, Region 1
New York State Department of Transportation
Suffolk County Planning Commission
Suffolk County Department of Health Services
Suffolk County Water Authority
Suffolk County Department of Public Works
Suffolk County Sewer Agency
Maria Z. Moore, Supervisor, Town of Southampton
Southampton Town Clerk
Janice Scherer, Director of Land Management
Chair, Southampton Town Planning Board
Charles J. Voorhis, Agent

This statement is not complete until authorized as follows:

Motion to Accept the Findings Statement and Approve the Riverside Sewage Treatment Plant Compatible Growth Area Hardship Waiver, Riverside, Town of Southampton
Project Site Suffolk County Tax Map Numbers 900-141-1-9.14; 9.17; 9.25; 9.29; 9.30; 9.31; and 9.32
DATE: May 15, 2024

MOTION BY: Ms. Moore

SECONDED: Ms. DiBrita

VOTE:

YES: 3

NO: 1 - Mr. Charters

ABSENT: 1 - Mr. Romaine, Suffolk County Executive

Present:

Mr. Calarco, for the New York State Governor

Ms. DiBrita, for the Brookhaven Supervisor

Mr. Charters, for the Riverhead Supervisor

Ms. Moore, Southampton Supervisor