



# Town of Brookhaven Long Island

**Daniel J. Panico**, Supervisor

January 7, 2025

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

**RE: Hardship Application  
Town of Brookhaven Sewer District 2**

Dear Commissioners:

Enclosed please find our application seeking a hardship for a development project located in the Compatible Growth Area (CGA) that does not conform to one or more standards for development identified in the Comprehensive Land Use Plan. We recognize the Commission is authorized to waive strict compliance with the standards and to alleviate hardship, provided the waiver is consistent with the purposes and provisions of ECL Article 57 and will not result in substantial impairment of Central Pine Barrens resources.

The parcels in consideration are shown on the enclosed Figure 1 and identified as Suffolk County Tax Parcel numbers 0200554000300004053 and 0200554000300004040 and total 4.074 acres in area.

Based on the Comprehensive Land Use Plan, the maximum allowable area of land clearing is 60% or 2.44 acres. To date, 2.32 acres have been cleared and are being utilized for the existing Sewage Treatment Plant and leaching pools. The remaining 0.12 acres will not be of sufficient size for the proposed development project.

SCDHS/SCDPW requires the existing treatment plant to have land available to accommodate 120 leaching pools (i.e., land to provide for installation of eighty [80] pools to serve the existing treatment plant and area large enough to accommodate forty [40] future pools).

As shown in Figure 2, the proposed development project consists of the installation of forty (40) new leaching pools with land set aside for the 40 future pools. This would require the clearing of approximately 1.25 acres. We have provided the following justification to exceed the maximum allowable area of land clearing for this proposed development:

**Planning, Environment and Land Management  
James M. Tullo, Commissioner**

One Independence Hill • Farmingville • NY 11738 • Phone (631) 451-6400 • Fax (631) 451-6419  
[www.brookhavenny.gov](http://www.brookhavenny.gov)

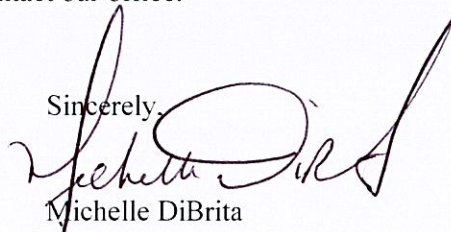


- SCDHS/SCDPW requires a total of eighty (80) pools to serve the existing treatment plant. SCDHS approved construction of the existing treatment plant and the existing forty (40) pools in 2009, but with the understanding that an additional forty (40) pools would be installed when funding became available to meet the eighty (80) pools requirement. The proposed project is for the installation of forty (40) new pools to meet that requirement.
- Once the District meets the required eighty (80) leaching pools, the 40 future pools would accommodate plant expansion for in or out-of-district connection requests. Future plant expansion would benefit the environment by reducing nitrogen impacts to groundwater and the receiving waters and to meet County and New York State's nitrogen reduction action plan (i.e., Suffolk County's Subwatershed Wastewater Plan and the New York State Dept. of Environmental Conservation's Long Island Nitrogen Action Plan).

We believe the approval of a hardship waiver should be granted as it is consistent with the purposes and provisions of ECL Article 57 and will not result in substantial impairment of Central Pine Barrens resources.

Should you have any questions, please feel free to contact our office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michelle DiBrita", written over the word "Sincerely,".

Michelle DiBrita  
Chief Deputy Commissioner  
Planning, Environment and Land Management

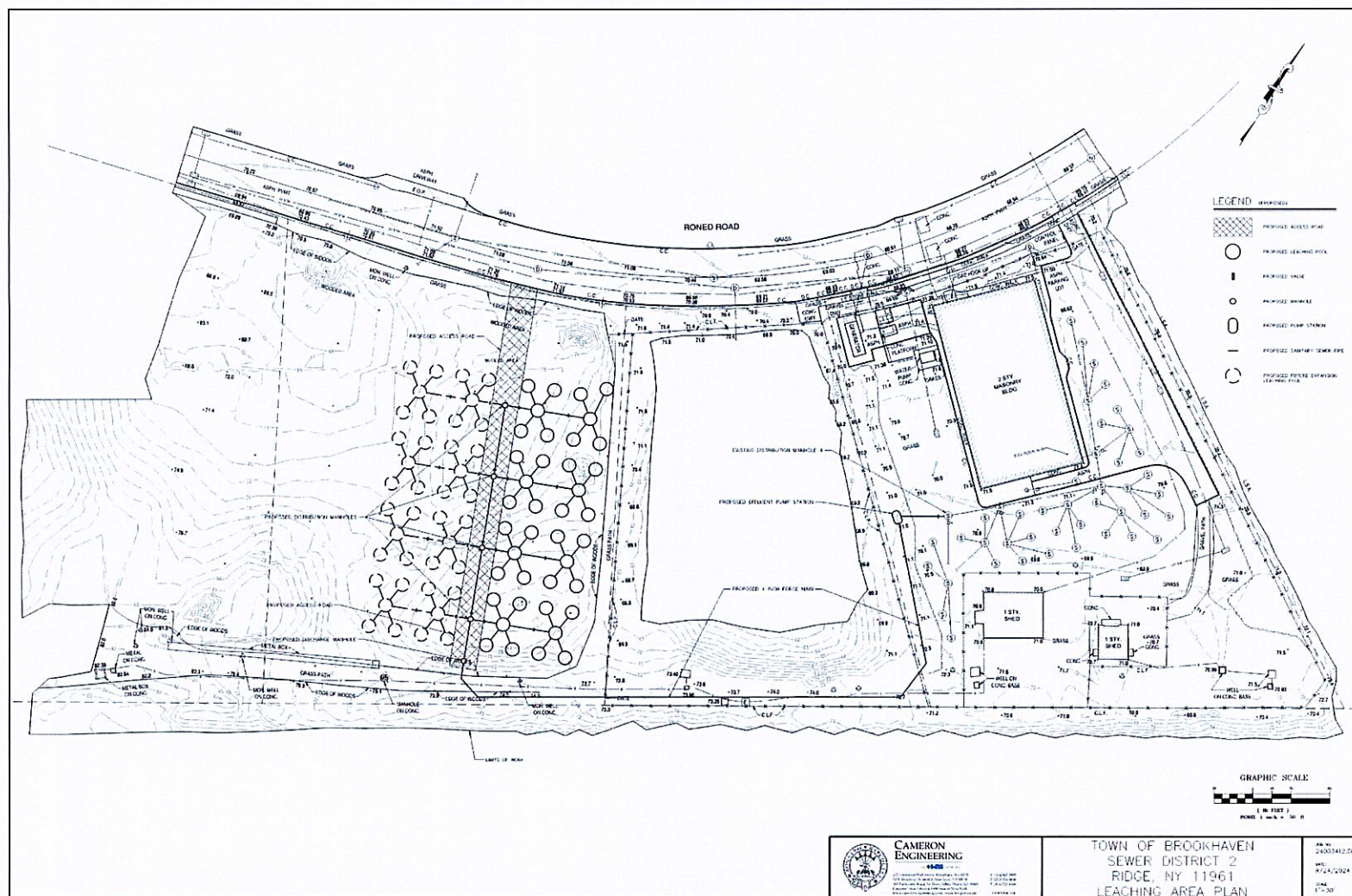
cc: Tony Leung, IMEG  
Frank Proscia, IMEG





Figure 1 – Town of Brookhaven Sewer District 2 Parcel Map





**COMPATIBLE GROWTH AREA APPLICATION PACKET**  
**(Hardship - Updated 07/19/24)**

Dear Applicant:

We are enclosing the necessary forms for requesting review of a proposed development within the Compatible Growth Area that does not conform to the standards set forth in the applicable Town Code and as outlined in Volume 1, Chapter 4 of the Central Pine Barrens Comprehensive Land Use Plan.

The Commission is authorized to waive strict compliance the standards pursuant to ECL §57-0123(3)(b) to alleviate the hardship, provided the waiver is consistent with the purposes and provisions of ECL Article 57 and will not result in substantial impairment of Central Pine Barrens resources. To facilitate your application, please find the enclosed following items:

1. Transmittal Letter (2 pages)
2. General Project Data Sheet (2 pages)
3. Standards for Land Use (2 pages)
4. Section Town Law §267-b, which contains the criteria the Commission is to consider in addition to those in ECL §57-0123(3)(b).

Please note that all forms must be completely filled out and all supporting documentation to show how your project does not meet the land use standards and how it meets the criteria for a hardship pursuant to Environmental Conservation Law §57-0123(3)(b). The completed application with the necessary supporting documentation will constitute your development application. Additionally, the Transmittal Letter lists several specific items which must be submitted:

- A copy of any and all approvals that have been received to date
- Three copies of the final approved map or site plan including any required conditions or revisions.
- Copies of other maps or data that document and support the information presented in the attached forms.
- A Full Environmental Assessment Form or final State Environmental Quality Review Act findings statement and supporting documentation (Environmental Assessment Form, Draft and Final Environmental Impact Statements)
- A copy of the Suffolk County Planning Commission determination (if applicable) regarding this application.
- Completed and Notarized Owner's Affidavit (form attached) - only required if the applicant does not own the property.
- Documentation on how the application meets ECL 57-0123(3)(b), including the criteria contained in Town Law §267-b.

Thank you for completing this application and as soon as it is received by the Commission and found to be complete, a hearing will be scheduled for your project. If you require further assistance in filling out your application, please feel free to contact Commission staff at 631-288-1079.

Sincerely,  
Commission Staff

**COMPATIBLE GROWTH AREA APPLICATION  
TRANSMITTAL LETTER**

Dear Commissioners:

Please accept this package as an application for development review of the project known as

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submitted on \_\_\_\_\_ by \_\_\_\_\_  
Date Applicant's Name

This project is located within the Compatible Growth Area of the Central Pine Barrens as described in §57-0107 of the New York State Environmental Conservation Law. I realize that this proposal must meet the criteria for hardship pursuant to Environmental Conservation Law §57-0121 subdivision nine of the Pine Barrens Protection Act.

I believe that this project meets the criteria for a hardship, and appropriate supporting documentation is included in this application. Please find below an explanation, and specific page references to the accompanying support materials, showing how the project is in non-conformance with the standards and how it meets the criteria for a hardship. I have also enclosed the required additional materials as noted below. I understand that it is important that I read the enclosed standards and criteria for a hardship thoroughly and that my application may be considered incomplete if an explanation is not provided for each of the items described therein and listed below.

In addition to the information noted above, the following requisite material has also been included in this packet: *(please check those items that are included)*

\_\_\_\_\_ A copy of any and all approvals that have been received to date

\_\_\_\_\_ Three copies of the final approved map or site plan including any required conditions or revisions.

\_\_\_\_\_ Copies of other maps or data that document and support the information presented in the attached forms.

\_\_\_\_\_ A Full Environmental Assessment Form or final State Environmental Quality Review Act finding statement and supporting documentation (Environmental Assessment Form, Draft and Final Environmental Impact Statements)

\_\_\_\_\_ A copy of the Suffolk County Planning Commission determination.

\_\_\_\_\_ Completed and Notarized Owner's Affidavit (form attached) - only required if the applicant does not own the property.

\_\_\_\_\_ Documentation on how the application meets ECL 57-0123(3)(b), including the criteria contained in Town Law §267-b.

I understand that public hearing will be scheduled for this project once my application has been deemed complete.

\_\_\_\_\_  
(Applicant's Signature)

\_\_\_\_\_  
(Applicant's Name Printed)

I authorize the following individual to act as my agent throughout the review process for this application. Please contact them with all information pertaining to this matter.

Agent's Name, Address and Phone Number:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Agent's Signature)

# OWNER'S AFFIDAVIT

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

STATE OF \_\_\_\_\_ )  
 )ss:  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, being duly sworn, deposes  
(Owner's Name(s))  
and says that I/we reside at \_\_\_\_\_  
(Owner's Address)  
\_\_\_\_\_, in the County of \_\_\_\_\_,

State of \_\_\_\_\_, and that I/we am/are the owner in fee of the  
property located at \_\_\_\_\_,  
(Property Address)  
which is also designated as Suffolk County Tax Map Number(s) \_\_\_\_\_

\_\_\_\_\_, and that I/we have been the  
owner(s) of this property continuously since \_\_\_\_\_, and that I/we  
(Date)  
have authorized \_\_\_\_\_ to make a  
(Applicant's Name)  
permit application to the Central Pine Barrens Joint Planning and Policy Commission for this  
property. I/we make this Statement knowing that the Central Pine Barrens Joint Planning and  
Policy Commission will rely upon the truth of the information contained herein.

\_\_\_\_\_  
(Owner's Signature)

\_\_\_\_\_  
(2<sup>nd</sup> Owner's Signature)

\_\_\_\_\_  
(Owner's Name - Please Print)

\_\_\_\_\_  
(2<sup>nd</sup> Owner's Name - Please Print)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
(Notary Public)

\_\_\_\_\_  
(Notary Public)



**OWNER'S AFFIDAVIT**

*(Use this form if property is owned by a corporation)*

STATE OF \_\_\_\_\_ )  
 )ss:  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, being duly sworn, deposes and says that I am the  
(Authorized Officer's Name)  
\_\_\_\_\_ of the \_\_\_\_\_ corporation  
(Official Title) (Landowner's Name)

located at \_\_\_\_\_,  
(Landowner's Address)  
in the County of \_\_\_\_\_, State of \_\_\_\_\_, and that  
this corporation is the owner in fee of the property located at \_\_\_\_\_  
(Property Address)

\_\_\_\_\_, which is also designated as Suffolk County Tax  
Map Number(s) \_\_\_\_\_, and that  
this corporation has been the owner of this property continuously since \_\_\_\_\_,  
(Date)

and that I have authorized \_\_\_\_\_  
(Applicant's Name)  
to make a permit application to the Central Pine Barrens Joint Planning and Policy Commission  
for this property. I make this Statement knowing that the Central Pine Barrens Joint Planning  
and Policy Commission will rely upon the truth of the information contained herein.

\_\_\_\_\_  
(Authorized Officer's Signature)

\_\_\_\_\_  
(Officer's Name - Please Print)

\_\_\_\_\_  
(Date)

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
(Notary Public)

**COMPATIBLE GROWTH AREA APPLICATION  
PROJECT DATA SHEET**

<b>Applicant Information</b>	
Name (print)	
Address	
Phone/Fax	
Agent's Name	
Address	
Phone/Fax	
<b>Project Information</b>	
Project Name	
Tax Map Number(s)	
Street Location	
Hamlet & Town	
Total Project Site Acreage	
Existing Land Use (vacant, residence, etc)	
Present Zoning (if split please give areas within each zone)	
Project Description	



<b>Permit Information</b> (please note which permits or plans are required and why, if they have been received and as of what date)	
State Environmental Quality Review Act (SEQRA) (please note if positive declaration, date of DEIS and FEIS, etc)	
Town Permits - subdivision, site plan, tree clearing, variance, special permit (please note from which board)	
Project Plans Enclosed (site plan, subdivision, etc.) Including drainage or landscape plans	
NYS DEC - wetlands, WSR, mining, SPDES, etc.	
Suffolk County Department of Health Services - Article 6, 7, 12	
Suffolk County Planning Commission	

## STANDARDS FOR LAND USE

Standard (S)		Explanation and Document Page Reference <i>(Attach additional sheets if necessary)</i>
S 5.3.3.1.1	Suffolk County Sanitary Code Article 6 compliance	
S 5.3.3.1.2	Sewage treatment plant discharge	
S 5.3.3.1.3	Suffolk County Sanitary Code Articles 7 and 12 compliance	
S 5.3.3.1.4	Commercial and industrial compliance with the Suffolk County Sanitary Code	
S 5.3.3.3.1	Significant discharges and public supply well locations	
S 5.3.3.4.1	Nondisturbance buffers	
S 5.3.3.4.2	Buffer delineations, covenants and conservation easements	
S 5.3.3.4.3	Wild, Scenic and Recreational Rivers Act compliance	
S 5.3.3.5.1	Stormwater recharge	
S 5.3.3.5.2	Natural recharge and drainage	
S 5.3.3.5.3	Ponds	



<b>Standard (S)</b>		<b>Explanation and Document Page Reference</b> <i>(Attach additional sheets if necessary)</i>
<b>S 5.3.3.5.4</b>	<b>Natural topography in lieu of recharge basins</b>	
<b>S 5.3.3.5.5</b>	<b>Soil erosion and stormwater runoff control during construction</b>	
<b>S 5.3.3.6.1</b>	<b>Vegetation clearance limits</b>	
<b>S 5.3.3.6.1.1</b>	<b>Non-contiguous parcels</b>	
<b>S 5.3.3.6.1.2</b>	<b>Split zone parcel(s)</b>	
<b>S 5.3.3.6.1.3</b>	<b>Residential overlay district</b>	
<b>S 5.3.3.6.1.4</b>	<b>Environmental restoration</b>	
<b>S 5.3.3.6.1.5</b>	<b>CGA Hardship requirement</b>	
<b>S 5.3.3.6.1.6</b>	<b>Split Core-CGA parcel(s)</b>	
<b>S 5.3.3.6.2</b>	<b>Open space standard requirement, unfragmented open space and habitat</b>	
<b>S 5.3.3.6.3</b>	<b>Fertilizer-dependent vegetation limit</b>	

Standard (S)		Explanation and Document Page Reference <i>(Attach additional sheets if necessary)</i>
S 5.3.3.6.4	Native plantings	
S 5.3.3.6.5	Receiving entity and protection for open space areas	
S 5.3.3.7.1	Special species and ecological communities	
S 5.3.3.7.2	Bird conservation and protection	
S 5.3.3.9.1	Light pollution prevention	
S 5.3.3.11.1	Tall structures and scenic resources	

**Town Law Section 267-b**

**(b) No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.**

**(c) The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.**