



Central Pine Barrens Commission Public Hearing
September 20, 2023

Riverhead Town Hall
200 Howell Avenue
Riverhead, NY

CVE Solar at Westhampton Property Associates

Core Preservation Area Extraordinary Hardship
Compatible Growth Area-Critical Resource Area

SCTM #s: 900-276-3-1 and 2

A. Location Map

Robert Calarco
Chairman

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

E. 2012 Commission Waiver on Westhampton Property Associates Core Hardship and Compatible Growth Area Critical Resource Area Application

F. Conservation Easement and Non-Disturbance agreement dated 2014

G. Study Area

H. Applicant hardship letter

I. Applicant's plan date stamped received September 14, 2023 titled "Restoration Plan for Solar Repurposing of Westhampton Mine" Prepared by Nelson Pope Voorhis dated September 5, 2023

J. NY State Environmental Conservation Law Article 49 Procedures for Modifying or Extinguishing Conservation Easement

K. Compatible Growth Area Critical Resource Area Map and list for CRA S10 from Chapter 4 of the Central Pine Barrens Comprehensive Land Use Plan

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DRAFT

Central Pine Barrens Joint Planning and Policy Commission

Staff Report

Meeting of September 20, 2023

Riverhead Town Hall

PROJECT NAME: CVE US NY Southampton 243 LLC

**Core Preservation Area Extraordinary Hardship Waiver and
Proposed modification of a Conservation Easement pursuant to ECL Article 49**

REPRESENTATIVE: Steven Englemann, CVE North America Inc.

OWNER: Giuseppe Giaquinto, Westhampton Property Associates

PROJECT TIMELINE:

- 8/8/23 Received application
- 8/16/23 Scheduled Public Hearing
- 9/20/23 Public Hearing
- 11/29/23 Decision Deadline

PROJECT SITE LOCATION:

East of Speonk Riverhead Road, north of Old Country Road (CR 71), South of New York State Route 27, Eastport, Town of Southampton, Core Preservation Area, see Exhibit A

PROJECT SITE AREA: Lease and develop 25 acres of a 91 acre sand mine
(Owner controls 115 acres including 68.07 acres in the Core and 46.93 acres in the CGA-CRA)

TAX MAP NUMBERS: 900-276-3-1 and 2

ZONING DISTRICT: Country Residence 200 (five acre residential zoning category)

PROPOSAL

The Applicant's proposal includes:

- A request for a core hardship to develop and lease 25 acres to build a solar facility on the site of a 91 acre sand and gravel mine. Confirmation needed on the precise location of the proposal on the property in relation to the CGA and Core boundaries. The project appears to span the Core/CGA boundary and is in a Critical Resource Area, #S10, defined in Chapter 4 of the Plan. Prior core hardship granted in 2012 to deepen the sand mine on this Project Site.
- Modification of a conservation easement recorded on the property pursuant to ECL Article 49. Project may not be consistent with the conservation easement.
- Modification of a mined land reclamation plan. Project may not be consistent with the reclamation plan for habitat restoration.

EXISTING CONDITIONS

The Project Site is east of Speonk Riverhead Road, north of Old Country Road and south of State Route 27. See Exhibit B for the site plan.

The Project Site contains a 91 acre sand and gravel mine. See Exhibit C for photographs of the site and Exhibit D for the sand mine site plan and reclamation phases through 2047.

In 2012, the Commission granted a hardship waiver to expand the depth of the sand mine from an elevation of approximately 45 feet above sea level to an elevation of approximately 26 feet above sea level. See Exhibit E for the decision.

SITE HISTORY

The 2012 core hardship required the recording of a conservation easement that committed the owner to habitat restoration as reclamation when mining was completed. The easement is dated June 10, 2014. See Exhibit F for the easement.

Study Area Land Use

A Study Area of approximately one-half mile surrounding the Project Site was reviewed to characterize the land use development pattern and zoning in the area. See Exhibit G for the Study Area map.



The owner controls 115 of property including the 91 acre sand and gravel mine known as Westhampton Property Associates. The southern end of the property has frontage on County Route 71 (Old Country Road). The CGA portion including the sand mine and the proposed project are also situated in a Critical Resource Area, defined by tax map number and described in Chapter 4 of the Plan.

The CGA extends approximately 4,000 feet north of CR 71. North of the CGA boundary is the Core Preservation Area. It extends the length of approximately 5,600 feet to State Route 27 (Sunrise Highway). North of the SR 27 is undeveloped wooded pine barrens land owned by the County of Suffolk. The sand mine is in the Core and the CGA.

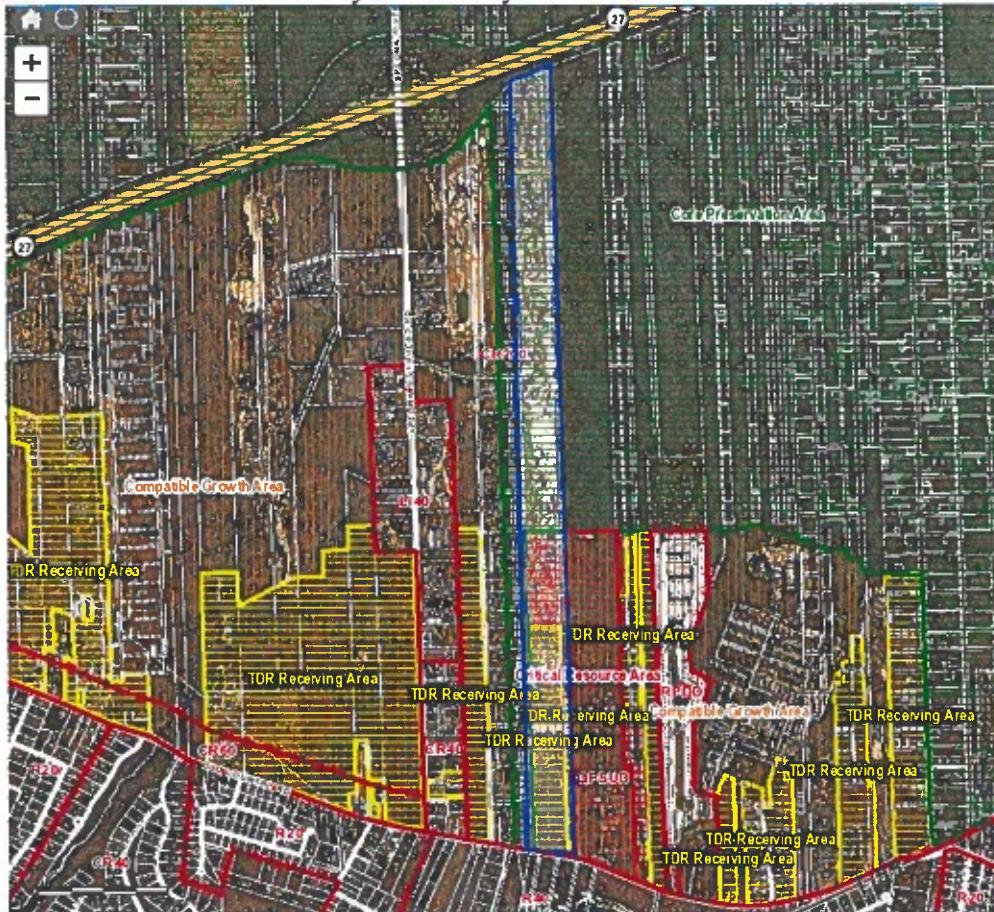
Property to the east of the Project Site is owned by Bide-A-Wee, an animal shelter, and a significant amount of publicly owned natural open space. Developed land uses in the vicinity on Old Country Road include a senior living complex known as Westhampton Senior Housing and a large impound facility operated by the Suffolk County Police Department.

West of the site, in the CGA, other industrial land uses are present including warehouses, other sand mines, Hampton Sand, and an asphalt plant.

Residential land uses are present at the southerly end of Speonk Riverhead Road. A 36 acre block of open space on the southwest corner of Speonk Riverhead Road and Old Country Road is owned by Southampton Town.

Zoning

The Study Area is zoned CR 200 with exception of sites zoned LI40 directly on Speonk Riverhead Road. The southeast side of Speonk Riverhead Road is in the CR 40 zoning district (1 acre residential). A significant amount of Pine Barrens Credit Receiving Area capacity is provided in the Study Area. Sophia Place, a residential subdivision, utilized the Pine Barrens Credits to increase residential density in the Study Area.



SITE DESCRIPTION

Topography/Elevation: The northerly end of the site is higher than the southern portion. The site's grade has been significantly altered due to the presence of a sand mine.

Soils: Soils on site have been significantly altered by the presence of the sand and gravel mine.

Hydrology: Hydrogeologic Zone III. Depth to groundwater varies on the Project Site.

Vegetation: Natural vegetation is present on the south side of the Project Site in the CGA. Areas of the sand mine have been restored. More information is needed on the current status of reclamation including habitat restoration. See Exhibit C photographs.

Rare, Endangered, & Threatened Species and Species of Concern: Obtain letter from NYSDEC Natural Heritage Program.

Cultural/Archeological: By letter dated September 5, the NYS OPRHP indicated that the project will not impact cultural resources in or eligible for inclusion in the State and National Register of Historic Places.

Scenic Resources: Sunrise Highway is a scenic resource described in Volume 2 of the Plan.

Wastewater: The flow capacity is 115 acres x 300 gpd or 34,500 gpd. Confirm if any sewage generating uses are proposed such as an office with a restroom.

INVOLVED/INTERESTED AGENCIES AND REQUIRED APPROVALS

- SEQRA – Type I Action. No coordination yet
- Town of Southampton applications, permits, approvals, variances
- Central Pine Barrens Commission Core Hardship Permit
- Commission review of whether the easement can be modified and modification pursuant to ECL Article 49
- NYSDEC permit modification to amend the reclamation plan and end use

PUBLIC COMMENTS

To be received at the Hearing

EXTRAORDINARY HARDSHIP

The applicant is required to demonstrate Hardship in accordance with ECL 57-0121(10). The applicant submitted a petition addressing Section 57-0121(10) of the Act for the proposed extraordinary hardship waiver. See Exhibit H for the applicant's petition on the hardship.

This section provides an outline of the waiver criteria.

“10. Any person, the state or a public corporation upon a showing of hardship caused by the provisions of subdivision eight of this section on development in the core preservation area, may apply to the commission for a permit exempting such applicant from such subdivision eight in connection with any proposed development in the core preservation area. Such application for an

exemption pursuant to the demonstration of hardship within the core preservation area shall be approved only if the person satisfies the following conditions and extraordinary hardship or compelling public need is determined to have been established under the following standards or for development by the state or a public corporation or proposed for land owned by the state or a public corporation compelling public need is determined to have been established under the following standards:”

“(a) The particular physical surroundings, shape or topographical conditions of the specific property involved would result in an extraordinary hardship, as distinguished from a mere inconvenience, if the provisions of this act are literally enforced.”

“A person shall be deemed to have established the existence of extraordinary hardship only if he or she demonstrates, based on specific facts, that the subject property does not have any beneficial use if used for its present use or developed as authorized by the provisions of this article, and that this inability to have a beneficial use results from unique circumstances peculiar to the subject property which:”

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

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

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

DISCUSSION/COMMENTS

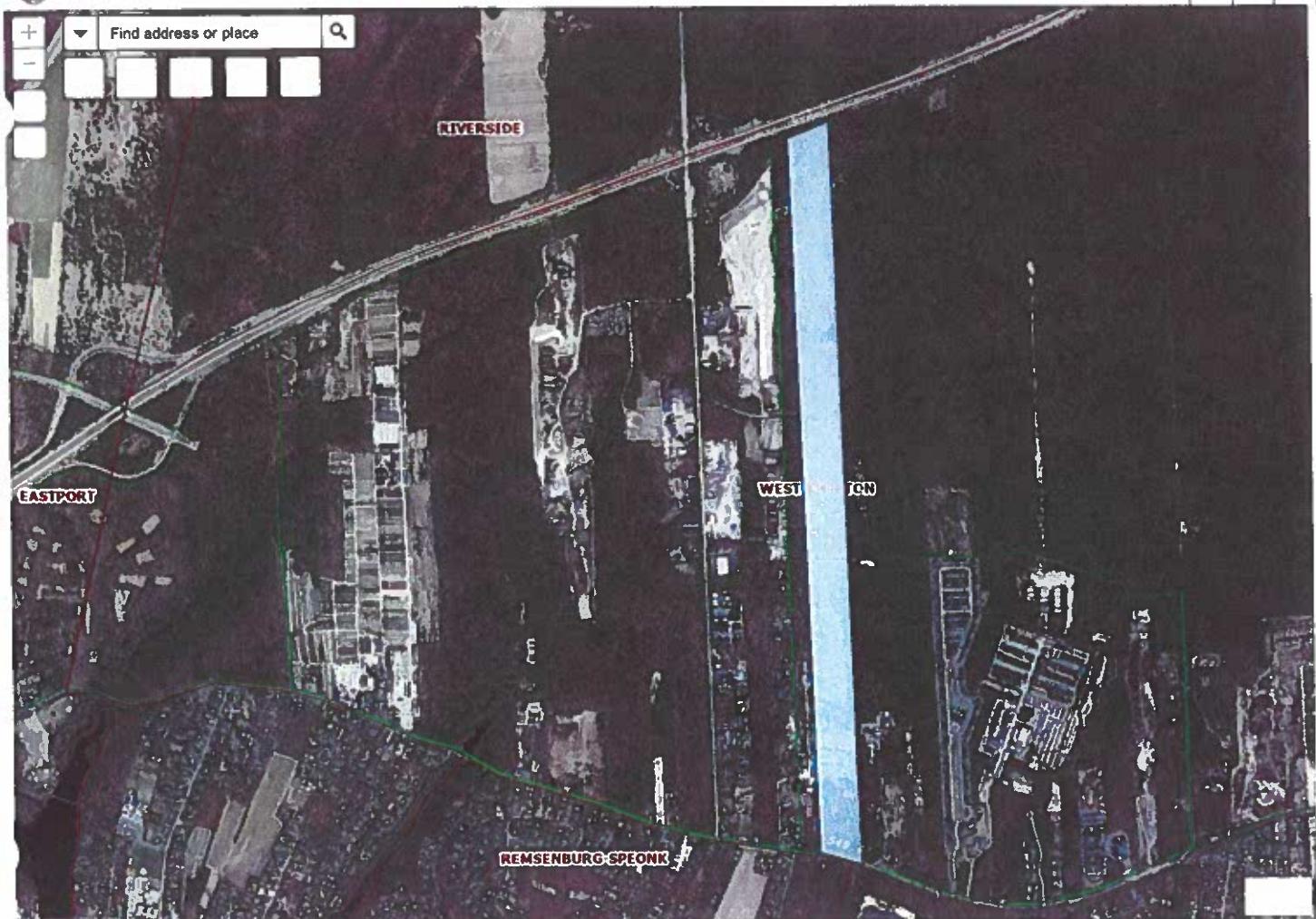
1. Please provide information on the Project Site and past, current and future plans including:
 - 1) CGA/Core boundary
 - 2) Areas/acres where mining has been completed
 - 3) Areas/acres that continue to be mined
 - 4) Areas/acres of habitat restoration where mining has been completed
 - 5) Areas/acres of the site planned for solar, presently and in future phases
 - 6) Timeline for phasing out mining activity
 - 7) Timeline for phasing in solar
2. The Project Site appears to be in the Core and CGA Critical Resource Area. A CRA application may be required.
3. Explain how the proposal affects the recorded conservation easement and discuss the proposal to modify the easement pursuant to the provisions in NYS ECL Article 49, procedures for modifying or extinguishing conservation easements.
4. Explain how the proposal affects the DEC sand mine permit and mined land reclamation plan.
5. Provide more information on the facility proposed near Speonk Riverhead Road, is it an office with a restroom, equipment compound or other facility, and the tax map number and ownership of the property.
6. Please explain how the proposal relates to the 2012 core hardship and beneficial use on the site, reclamation plan and schedule and the recorded conservation easement.
7. Is a DEC mining permit modification or amendment required to:
 - 1) Change the area of mining
 - 2) Change the reclamation plan
 - 3) Add a use other than mining or change the use
8. SEQRA process, Type I
9. Further comments and recommendations may be necessary after the public hearing or receipt of additional information.

EXHIBITS

- A. Location Map
- B. Solar facility site plan
- C. Site photographs from the Applicant
- D. Sand mine and phased reclamation plan
- E. 2012 decision
- F. 2014 Conservation Easement and Non-Disturbance agreement
- G. Study Area
- H. Applicant hardship letter for the solar facility

GIS VIEWER

Saratoga County, NY



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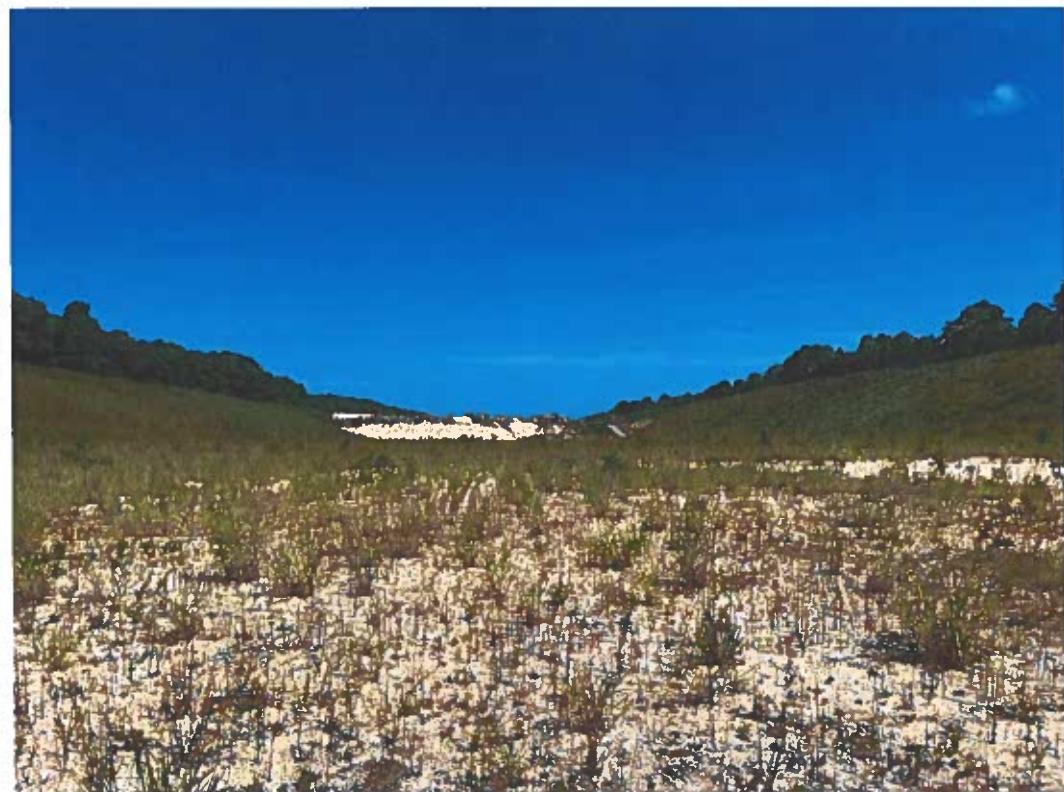
CVE Solar at Westhampton Property Associates
Central Pine Barrens Commission Public Hearing September 20, 2023



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Westhampton Property Associates sand mine site conditions
August 2023

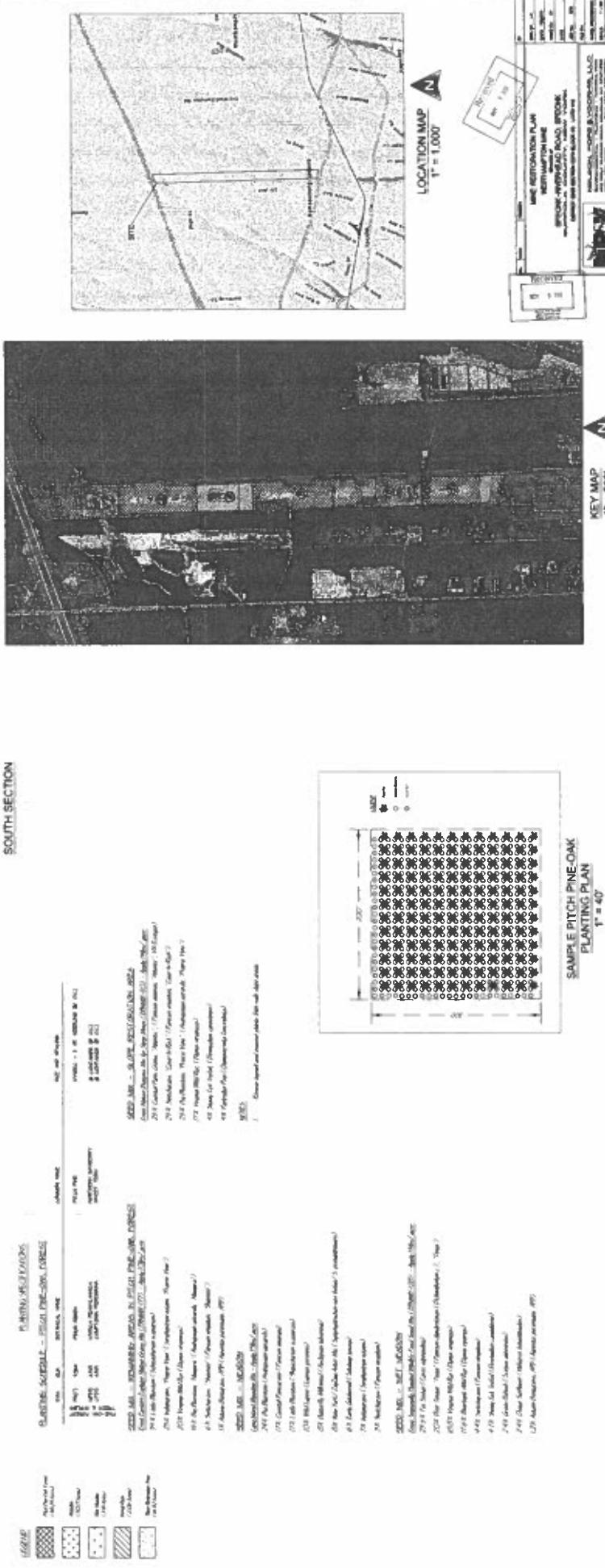
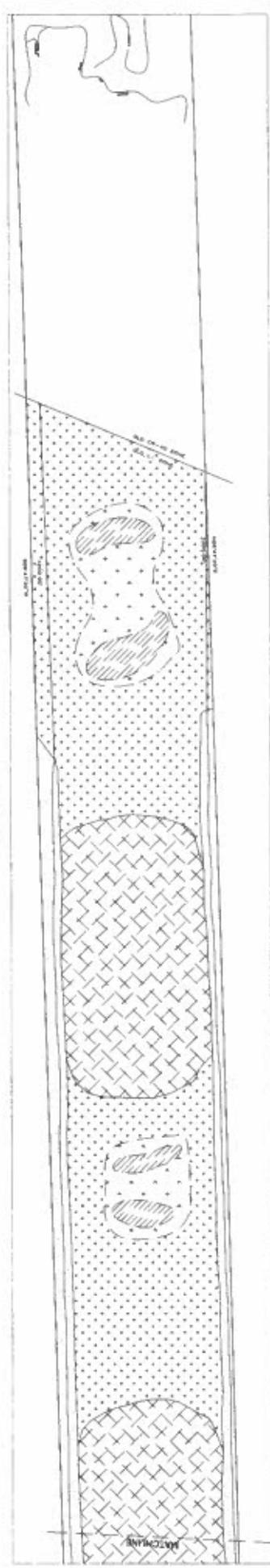
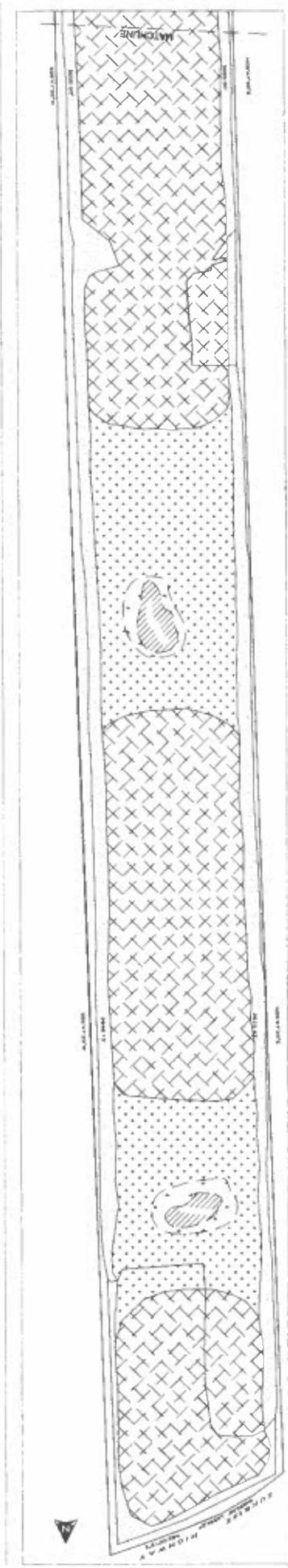


Westhampton Property Associates sand mine site conditions
August 2023



Westhampton Property Associates sand mine site conditions
August 2023





Westhampton Mine
Mine Reclamation Plan

presence/absence of invasive species and will identify corrective actions necessary for each species encountered (described in Section 4.0 above).

6.0 RECLAMATION SCHEDULE

It is anticipated that mine reclamation will begin approximately four (4) years after all approvals for the additional proposed mining are received. Reclamation activities, including final grading and restoration activities will take approximately 28 years in total to complete. Mine reclamation will occur in a total of eight (8) phases, as illustrated on Figure 3. In each phase, the mine will be excavated to the maximum permitted depth and will be graded to provide topographic features appropriate for revegetation activities. Once final grading is complete, revegetation of the area will occur. The table below provides an estimated schedule for each phase of the proposed mining and restoration activities.

Phase	Year Mining Begun	Year Mining Complete & Restoration Installed	Year Restoration Monitoring Complete
1	2026	2029	2032
2	2030	2032	2035
3	2030	2034	2037
4	2034	2037	2040
5 North	2038	2041	2044
5 South	2041	2044	2047
6	2023	2026	2029
7	2020	2023	2026
8	2015	2019	2022



Commission Meeting of October 17, 2012 Brookhaven Town Hall

Present: Mr. Scully (New York State), Ms. Lansdale (Suffolk County),
Ms. Prusinowski (Brookhaven), Mr. Walter (Riverhead),
Ms. Throne-Holst (Southampton)

Adopted Resolution

Westhampton Property Associates Core Preservation Area Hardship and Compatible Growth Area Critical Resource Area Application

Property located on the south side of Sunrise Highway (SR 27), north side of
Old Country Road (CR 71), 500 feet east of 5th Avenue, in the hamlet of
Remsenburg/Speonk, Town of Southampton,
Suffolk County Tax Map #: 900-276-3-1 and 2

Whereas, on November 9, 2011, Westhampton Property Associates, LLC (the Applicant) by its representative Nelson Pope & Voorhis, LLC, filed with the Commission an application for development to expand the depth of an existing 91-acre sand and gravel mine (the Project); and

Whereas, the 91-acre mine is part of a 115 acre project site comprised of two parcels owned by the Applicant, in the Country Residence 200 (CR 200) Zoning District, in the Town Aquifer Protection Overlay District, hamlet of Remsenburg/Speonk, Town of Southampton, identified on the Suffolk County Tax Map as parcels 900-276-3-1 and 2, as per the map entitled "Sand Mine Plan and Profile" prepared by Raynor, Marcks & Carrington last dated August 4, 2011 (Sheets 1, 2, and 3); and

Whereas, 68.07 acres of the project site is located in the Core Preservation Area of the Central Pine Barrens; and

Whereas, 46.93 acres of the project site is located in the Compatible Growth Area and is designated as part of a Critical Resource Area (CRA) identified as S10 in Figure 4-6 in Chapter 4.5.4.1 of the Central Pine Barrens Comprehensive Land Use Plan (CLUP); and

Whereas, the features of CRA S10 are described in the CLUP as "Open space on northerly portion of site complements adjacent open space;" and

Whereas, the Project is a depth expansion of an existing sand mine, which is currently at an elevation of approximately 45 feet above sea level, to an elevation of approximately 26 feet above sea level, which will be a minimum of four feet and a maximum of six feet above the elevation of the groundwater table, depending on the seasonally varying height of the

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groundwater table; and

Whereas, other Project elements include the preparation and recording of a Conservation Easement on the 91-acre mine to preserve it when mining is completed; and restoration of the mine in accordance with a reclamation plan prepared by Nelson, Pope & Voorhis dated July 18, 2011; and

Whereas, the current New York State Department of Environmental Conservation (NYSDEC) mine permit expires in the year 2016; and a permit modification for the depth expansion was filed by the Applicant with NYSDEC; and

Whereas, the Project expands the area of mining on site and extends mining activity on site to the year 2041; and

Whereas, the Applicant submitted a Mine Restoration Plan for the site prepared by Nelson Pope & Voorhis dated July 18, 2011 and a narrative entitled "Mine Reclamation Plan" prepared by Nelson Pope and Voorhis. The Plan describes the implementation of an eight phase mine land reclamation plan. The Plan schedule indicates Phase 1 will commence in 2019, and Phase 8 will commence in 2041. Restoration monitoring spans from the year 2022 to 2047. The Plan legend lists the habitat types to be created as follows: 38.24 acres of pitch pine oak forest, 30.17 acres of meadow, 3.91 acres of wet meadow, 2.06 acres of vernal pools, and 16.32 acres of slope restoration area. The total area of reclamation is 90.7 acres; and

Whereas, the Project will not intercept groundwater elevation under the mine floor and will maintain a maximum vertical buffer of six feet to groundwater but which shall be no less than four feet; and

Whereas, the Project constitutes development pursuant to Environmental Conservation Law (ECL) §57-0107(13)(b) and (c), which states development includes, "*a material increase in the intensity of use of land or environmental impacts as a result thereof;*" and "*commencement of mining, excavation or material alteration of grade or vegetation on a parcel of land excluding environmental restoration activities;*" respectively; and

Whereas, the Project requires a Core Preservation Area Extraordinary Hardship, a discretionary action of the Commission; and

Whereas, the CRA portion is subject to the Review Procedures of the CLUP in Chapter 4 Section 4.5.5, *Development located within the Compatible Growth Area which is also located within a Critical Resource Area*, which states, "*The Act sets forth the jurisdiction for the Commission's review of development within the Compatible Growth Area of the Central Pine Barrens. Such review includes development that is located in Critical Resource Areas. The Act also authorizes the Commission, by majority vote, to waive strict compliance with this Plan upon finding that such waiver is necessary to alleviate a demonstrated hardship;*" and

Whereas, a public hearing was held on January 18, 2012, continued on February 15, 2012 and stenographic transcripts of the hearings were made available to the Commission; and

Whereas, on June 15, 2012, the Applicant submitted supplemental information including a report entitled “*Fiscal and Economic Impact Analysis and Assessment of Needs and Benefits*” prepared by Nelson, Pope & Voorhis, LLC dated June 15, 2012; and

Whereas, a second public hearing was held on July 18, 2012; and a stenographic transcript of the hearing was made available to the Commission; and

Whereas, at the July 18th hearing, the Commission inquired about potential impacts on the owner’s business with respect to the availability of material to contractors; and

Whereas, on August 14, 2012, the Applicant submitted copies of letters received from contractors in support of the hardship waiver as it relates to their continued business with the Applicant and potential impacts if the hardship were not granted; and the letters were entered into the record for the Project in response to the Commission’s inquiry at the public hearing; and

Whereas, the Town of Southampton submitted a copy of a letter to NYSDEC dated June 20, 2008 indicating the pre-existing nonconforming use of a sand mine and mining activities on site pre-date the Town Zoning Code, and the site’s existing and continued use as a mine is grandfathered, and

Whereas, pursuant to the criteria contained in ECL §57-0121(10) (a) (i) through (iii), the Applicant has satisfied the conditions for and has demonstrated extraordinary hardship as the Project is unique since the site contains a pre-existing sand mine permitted and developed in 1981, prior to the Long Island Pine Barrens Protection Act of 1993 (the “Act”), with no disturbance to existing native vegetation or clearing beyond the existing extent of the currently permitted mine; and

Whereas, pursuant to the Applicant’s demonstration of extraordinary hardship as per ECL §57-0121(10)(a), the Applicant has satisfied the conditions for demonstrating extraordinary hardship as the Applicant contends the business is family operated and planning for future business is an imminent concern; although the current permit term expires in 2016, the 16 acres of material left to mine will be extracted sooner than the current permit term extends; and, as shown in the record, the Applicant has no other beneficial use of the site if not used as a mine; and

Whereas, pursuant to the Applicant’s demonstration of extraordinary hardship as per ECL §57-0107(1)(a)(i), the Project does not apply to or affect other properties in the immediate vicinity since other sand and gravel mines in the vicinity are in the CGA,

and much of the Core property in the vicinity of the site is preserved under public ownership; and

Whereas, the Applicant submitted an Environmental Assessment Form (EAF) Part I; and

Whereas, the Project is a Type I Action pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act, SEQRA), and the Commission performed a coordinated review for Lead Agency status with other Involved Agencies including the New York State Department of Environmental Conservation (NYSDEC) and the Town of Southampton Planning Board and requested to serve as Lead Agency by letter dated January 4, 2012, as per the Central Pine Barrens Comprehensive Land Use Plan Chapter 4 Section 4.5.1.1, *Lead Agency Assertion*; and

Whereas, no objection was raised by the NYSDEC or Town of Southampton concerning the Commission's request to assume Lead Agency status, and the Commission assumed Lead Agency; and

Whereas, an EAF Part II was prepared and reviewed by the Commission; and no significant adverse environmental impacts were identified in the SEQRA process; and

Whereas, pursuant to New York State Environmental Conservation Law (ECL) Article 8 (State Environmental Quality Review Act (SEQRA) and its implementing regulations 6 NYCRR Part 617, the Commission has considered the relevant areas of potential environmental impacts applicable to the Project and has applied the Criteria for Determining Significance contained in 6 NYCRR Part 617, section 617.7(c), and

Whereas, the Project will not generate objectionable odors, will not install any stationary sources of air emissions and will continue to manage the mine within its current operating parameters using the same machinery as before with no significant increase in air emissions; therefore, as a result, the Project will not result in any significant adverse impact on air quality, and

Whereas, although the Project will decrease the vertical distance to groundwater, the review of the record indicates the Project will not generate sanitary flow which will obviate the potential for groundwater contamination by constituents in effluent; will not create sources of nitrate-nitrogen as it will exclude fertilizer-dependent vegetation that could potentially enter groundwater; will not engage in any industrial processes, storage of toxic materials or fueling operations that could adversely impact groundwater; will not generate significant discharges of effluent; is not located near any public water supply wells and the project site does not contain a private well; therefore the Project will not result in any adverse impacts to groundwater and complies with CLUP Standard 5.3.3.1.1 regarding Suffolk County Sanitary Code Article 6 compliance, Standard 5.3.3.1.2 regarding Sewage treatment plant discharge, Guideline 5.3.3.1.3 regarding Nitrate-nitrogen goal, Standard 5.3.3.2.1 regarding Suffolk County Sanitary Code Articles 7 and

12 compliance, Standard 5.3.3.3.1 regarding Significant discharges and public supply well locations and Guideline 5.3.3.3.2 regarding Private well protection, and

Whereas, the Project will not result in any adverse impacts to groundwater located in Hydrogeologic Zone III, a deep-recharge zone, as the Project preserves the hydrologic functions and groundwater quality of the Core, pursuant to the goals and objectives in Environmental Conservation Law Article 57, §57-0121(3), and

Whereas, the record indicates there are no wetlands or surface waters located either on or in proximity to the project site and the project site is not located within a Wild, Scenic and Recreational River corridor; therefore, the Project will not result in any significant adverse impacts on wetlands, surface waters or a Wild, Scenic and Recreational River corridor and, as a result, CLUP Standard 5.3.3.4.1 regarding Nondisturbance buffers, Standard 5.3.3.4.2 regarding Buffer delineations, covenants and conservation easements, Standard 5.3.3.4.3 regarding Wild, Scenic and Recreational Rivers Act compliance and Guideline 5.3.3.4.4 regarding Additional nondisturbance buffers are not applicable to the Project, and

Whereas, according to the record, all stormwater generated on the project site will be recharged on site, will be controlled during mining operations and will not impact adjacent properties nor any surface waters or wetlands; no drainage systems or recharge basins are proposed on the project site and vernal pools to be created by the project will be perched above the groundwater table and will serve to receive stormwater runoff as well as to establish new habitat areas; therefore, the Project will not result in any significant adverse impacts due to stormwater runoff, will not increase the potential for erosion, will not cause flooding and will not cause drainage problems, and, as a result, the project will comply with CLUP Standard 5.3.3.5.1 regarding Stormwater recharge, Guideline 5.3.3.5.3 regarding the creation of ponds and Guideline 5.3.5.5 regarding Soil erosion and stormwater runoff control during construction while Guidelines 5.3.3.5.2 regarding Natural recharge and drainage and 5.3.3.5.4 regarding Natural topography in lieu of recharge basins are not applicable, and

Whereas, as the Project will be managed within its current operating parameters, there will be no substantial net increase in traffic generation, truck trips and noise nor a significant net increase in solid waste production and

Whereas, the project site was legally approved for mining prior to the adoption of the Long Island Pine Barrens Protection Act and, as a result, the majority of the project site was previously disturbed, cleared, and excavated, and

Whereas, that portion of the project site within the Core Preservation Area was one of the areas that was previously cleared and excavated and is therefore devoid of any existing natural vegetation and wildlife habitat, and

Whereas, the Project will clear an additional area of 10 acres comprised of commercial nursery vegetation pursuant to the life of mine permit issued by the New York State Department of Environmental Conservation and which predates the Act, and

Whereas, a 3.08 acre portion of the existing nursery, that is not approved for mining under the existing life of mine permit, will remain in its current state and will revert to natural conditions to provide new natural habitat in the future and an existing 10.92 acre area of pine barrens habitat on the southern end of the property will remain intact under the Project, and

Whereas, no rare, endangered, threatened or special concern species of plants or animals nor their habitats have been identified on the project site, and

Whereas, as a result of the lack of vegetation in that portion of the project site located in the Core Preservation Area and in the majority of the Compatible Growth Area and the lack of native vegetation on the affected 10-acre nursery area, the Project will not result in significant adverse impacts on vegetation, and

Whereas, due to the lack of native-vegetated habitat within the project site, the Project will not result in the removal or destruction of large quantities of fauna; will not cause substantial interference with any resident or migratory wildlife; will not adversely impact a significant habitat area nor cause significant adverse impacts to rare, endangered, threatened or special concern species of plants or animals; and

Whereas, when reclaimed at the end of mining activity, the Project will provide a replanted natural habitat area comprised of native pine barrens plant material which is consistent with the surrounding pine barrens vegetational communities in which no fertilizer-dependent vegetation is to be installed and which will allow for connections to be made with nearby open space areas, and, as a result, the Project will be consistent with CLUP Standard 5.3.3.6.1 regarding Vegetation Clearance Limits, Standard 5.3.3.6.2 regarding unfragmented open space, Standard 5.3.3.6.3 regarding fertilizer-dependent vegetation and Standard 5.3.3.6.4 regarding native plantings, and

Whereas, although the project site is not located within a Critical Environmental Area and will therefore not result in significant adverse impacts on said area's designated environmental characteristics, a portion of the project site within the Compatible Growth Area also lies within Critical Resource Area S10, "Upland Forest Westhampton," which was designated as such because "*Open space on northerly portion of site complements adjacent open space,*" and

Whereas, pursuant to Section 4.5.4.2 of the CLUP, the Commission is required to address "*the protection for the critical resource feature(s)*" of the Critical Resource Area designated in the Plan, and

Whereas, because the majority of the project site has already been previously disturbed and cleared and is privately owned, there is no existing protected open space on

the project site to complement any adjacent open space, and therefore, the Project will not result in any significant adverse impacts to the critical resource features of Critical Resource Area S10, and

Whereas, the natural pitch pine-oak woodland in the southern end of the Compatible Growth Area portion of the project site will remain in its current natural state and will continue to complement the open space within the Critical Resource Area, and

Whereas, the record indicates that the mine reclamation that will occur upon completion of the Project will complement the contiguous open space through revegetation with native pine barrens vegetation and by “expanding the unfragmented open space continuum,” and

Whereas, the Project is consistent with community plans, including the CLUP, will not result in a major change in use in the quantity or type of energy, will not create a hazard to human health, will not result in a substantial change in use, will not induce the attraction of large numbers of persons and will not cause significant adverse or cumulative impacts, and

Whereas, the record indicates the project site does not contain any significant archaeological or historical resources, in particular because of the significant amount of prior ground disturbance that previously occurred prior to the Act; therefore, the Project will not result in any significant adverse impacts to archaeological or historical resources, and

Whereas, the project site does not contain any significant aesthetic resources due to its previously-disturbed conditions and will not have any significant adverse impacts on aesthetic or scenic resources as a result and also due to the fact that the Project will preserve the character of the Core Preservation Area, as it will retain the existing naturally-vegetated buffer adjacent to New York State 27, a Scenic Road identified in Volume 2 of the CLUP, and will continue to not be visible from Route 27 and adjacent roadways, and

Whereas, the Commission has considered all materials submitted in connection with the application, now, therefore, be it,

Resolved, the above recitals are incorporated herein and made a part hereof; and be it further

Resolved, that pursuant to New York State Environmental Conservation Law (ECL) Article 8 (State Environmental Quality Review Act (SEQRA)) and its implementing regulations 6 NYCRR Part 617, the Commission hereby adopts a Negative Declaration pursuant to SEQRA for the Project, for the reasons set forth in this resolution, and be it further

I. Core Preservation Area Hardship Determination

Resolved, that the Commission hereby determines the application, as submitted, meets the criteria for Core Preservation Area Hardship based on extraordinary hardship pursuant to New York State ECL §57-0121(10) (b) and (c); and be it further

Resolved, the Commission finds the instant Core Hardship Waiver is not inconsistent with the purposes, objectives, or general spirit and intent of the Act; and be it further

Resolved, pursuant to ECL §57-0121(10)(a)(i) through (ii), the Commission finds that the Applicant has satisfied the conditions for and has demonstrated extraordinary hardship as the project site was developed and permitted as a sand mine prior to the Act; the Project will occur in the existing disturbed area of the project site, which was developed prior to the Act; the hardship does not apply to other properties in the immediate vicinity, since many other properties in the Core are under public ownership and other developed properties in the vicinity are in Compatible Growth Area; the development activity arises out of the characteristics of the subject property rather than the personal situation of the Applicant; and based on the review of existing regulations in effect on the project site and through the recording of a Conservation Easement on the 91 acre mine, the mine site will be protected from future development, especially that which could impact the environment and that once mining activity has ceased and restoration will occur in accordance with the Reclamation Plan, the Project is not expected to result in significant adverse environmental impacts; and be it further

Resolved, pursuant to ECL §57-0121(10)(c)(i), the Commission finds that the Applicant has satisfied the conditions for and has demonstrated extraordinary hardship as the Project involves no disturbance to existing natural vegetation; therefore, the Project will not be materially detrimental or injurious to other property or improvements in the area because the property in the vicinity of the site is also in the Core, is under public ownership, already developed, or not developable; the Project does not result in endangering public safety or substantial impairment of the resources of the Core; and the Applicant has met these additional standards for granting a Hardship Waiver in the Core due to site development as a mine prior to the Act and the continued use of the site as a sand mine, and the Project avoids disturbance to existing natural vegetation in the Core; and be it further

Resolved, no groundwater impacts in Hydrogeologic Zone III shall occur as the record demonstrates the Project will maintain a vertical buffer of 4 to 6 feet above the groundwater table, will not intercept groundwater below the mine floor elevation, will not generate sewage or discharge effluents that could contaminate groundwater, will not engage in the storage of toxic materials so as to adversely impact the underlying aquifer, will store all fuel in accordance with all local, County and State regulations and will adequately control stormwater and the Project preserves the hydrologic functions and groundwater quality of the Core, pursuant to the goals and objectives in ECL §57-0121(3), and be it further

Resolved, the Project will preserve the character of the Core Preservation Area, as the Project will not result in the removal of any natural vegetation from the Core Preservation Area; will retain the existing naturally vegetated buffer to NYS Route 27, a Scenic Road identified in Volume 2 of the CLUP, and it will continue to not be visible from Route 27 and adjacent roadways and will establish a new revegetated area upon cessation of mining which will further bolster the Route 27 buffer; and be it further

Resolved, pursuant to ECL §57-0121(10)(c)(iii), the waiver is the minimum relief necessary to relieve the extraordinary hardship on behalf of the Applicant and meets the needs of the business as the Project will not result in a lateral expansion beyond the existing NYSDEC life of mine permitted boundaries, will not expand the mine into the Compatible Growth Area beyond the existing NYSDEC life of mine permitted boundaries, will not expose groundwater and will not vertically expand the mine below the groundwater table; the Project avoids significant adverse environmental impacts, continues a pre-existing industrial land use in the Core, and avoids new construction and disturbance to natural vegetation in the Core via the applicant's offer to subject the project area to a Conservation Easement which obviates further development after cessation of the mining activity approved herein; and be it further

Resolved, the Applicant has demonstrated that the mined materials from the project site represent a commodity which is valuable and necessary to the local and regional economy and has demonstrated that there are specific commercial entities which are dependent on supplies of mined materials generated by the mine and which are particular to its geographic location and quality and grade of material; and be it further

Resolved, the Commission finds that the project site does not have a beneficial use other than a sand mine due to the location of the site, its lack of proximity to certain utilities and highway access, adjacent uses, zoning, the Applicant's investment in equipment and support services required for mining and market forces, and the interruption or cessation in the mine operation would result in financial hardship to the Applicant and contractors to whom it supplies materials; and be it further

Resolved, the Commission acknowledges that the Applicant offered to the Commission a Conservation Easement on the 91-acre sand mine site and the Commission accepts said Conservation Easement from the Applicant on the 91 acre sand mine which will be granted to the Commission, will be recorded on the 91 acre mine and will aim to preserve the resources of the project site in the Core and in the CGA-CRA, with the Applicant reserving rights to the current and continued use of the existing 91 acre mining land use through to the end of the expansion approved herein; and be it further

Resolved, no other use, development activity, or expansion of existing use on the 91-acre mine is permitted; and no future development activity beyond this Waiver is permitted on the 91 acre site mine; and be it further

Resolved, the Commission finds that the Project is consistent with Article 57 of the New York State Environmental Conservation Law, and the Applicant has

demonstrated it has met the criteria necessary for the issuance of a Core hardship waiver; and be it further

II. Critical Resource Area and Compatible Growth Area

Resolved, the Commission determines that the Applicant has demonstrated compliance with the standards and guidelines set forth in Volume 1, Chapter 5 of the Central Pine Barrens Comprehensive Land Use Plan (“the CLUP”), and the area of the CRA that is not subject to past and currently permitted mining activity will remain subject to the provisions that require Commission review of a CRA; and be it further

Resolved, the sand mine pre-dates the Act and the CLUP; therefore, the CRA portion of the 91 acre mine will continue to be mined and will be expanded in depth under the Project; the existing open space of the CRA, to which the project site is partially connected, will continue in its existing state, and once the Conservation Easement is recorded, that portion of the project site within the CRA will be protected from future development; and be it further

Resolved, the remaining 24 acres in the CRA are currently wooded and no development activity is proposed under the Project; therefore, it will remain in its natural state under the Project; in the future if development activity, as per the Act, is proposed in the CRA, it is subject to Commission review in accordance with the CLUP; and be it further

III. Plans and Monitoring

Resolved, the Commission accepts the Project’s Mine Restoration Plan prepared by Nelson Pope & Voorhis dated July 18, 2011 and a narrative entitled “Mine Reclamation Plan” prepared by Nelson Pope and Voorhis and requires the applicant to submit to the Commission, within 30 days of any changes, any and all revised versions of the Reclamation Plan and narrative in the future; and be it further

Resolved, based on current plans, mining is expected to cease completely on the project site by 2041, with reclamation occurring until the year 2048; and if the Applicant applies to NYSDEC for permit extensions or renewals to complete mining to the permitted depth, no additional deepening of the mine floor elevation shall be permitted below the Project elevation of six feet above groundwater; and be it further

Resolved, the Commission accepts the Applicant’s offer to submit monitoring reports that would provide quarterly and annual monitoring reports to document seasonal groundwater elevations and requires the applicant to submit monitoring reports quarterly and to also submit an annual report based on the prior year’s four quarters. In the event groundwater is intercepted at any time during mining operations, the Applicant shall immediately stop its mining operations, shall immediately notify the Commission and

shall not recommence mining operations until it has received written Commission authorization to do so; and be it further

IV. Conditions of Approval

Resolved, that the Commission approves the Project in accordance with the Sand Mine Plan and Profile prepared by Raynor, Marcks & Carrington last dated August 4, 2011 (Sheets 1, 2, and 3) and all application materials and submissions to date, subject to the following specific conditions:

1. Obtain other permits and approvals, as required by law, prior to commencement of the project. Copies of other agency approvals shall be forwarded to the Commission office within 30 days of their issuance.
2. Prior to commencement of new mining authorized by this approval, the applicant shall submit, at that time, the most current version of the Project's Mine Restoration Plan and Mine Reclamation Plan narrative and the applicant shall submit to the Commission, within 30 days of any changes, any and all revised versions of the Reclamation Plan and narrative in the future.
3. Mining activity on the existing 91 acre mine will continue and be expanded in depth to a maximum mine floor elevation of approximately 26 feet above sea level and a minimum of 4 feet and a maximum of six feet above groundwater, based on seasonal groundwater elevation.
4. Groundwater monitoring
 - a. Maintain a minimum six foot buffer from the mine floor to existing groundwater elevation to preserve the hydrologic functions of the Pine Barrens.
 - b. Conduct quarterly monitoring of fluctuating groundwater elevations to ensure the six foot buffer is maintained.
 - c. Submit quarterly and annual groundwater elevation monitoring reports to the Commission through the end of mining activity on the project site, which is currently projected to end in the year 2041.
 - d. In the event groundwater is intercepted at any time during mining operations, the Applicant shall immediately stop its mining operations, shall immediately notify the Commission and shall not recommence mining operations until it has received written Commission authorization to do so.
5. No change in land use or zoning on the project site.

6. No expansion of the mine, existing mine use, depth of mine, lateral or vertical extent beyond the current proposal on the 91-acre sand mine.
7. Any other development activity on the project site, as per the Act, is subject to Commission jurisdiction, review, and a discretionary decision. However, this statement does not constitute an approval of or recommendation for said future development activity.

8. Conservation Easement

- a. Prepare a Conservation Easement (CE) for the 91 acre mine site, and record the Conservation Easement in the Office of the Suffolk County Clerk within six months of the date of this resolution after the Commission approves the same. Prior to filing with the County Clerk, the Applicant shall submit a draft of same to the Commission for its approval. If approved by the Commission the CE shall be filed promptly with the Suffolk County Clerk. If rejected, the Applicant shall revise the draft CE as per the Commission's comments and resubmit the same for its approval. This cycle shall continue until the Commission approves the CE. The Applicant shall record the Commission-approved CE with the Suffolk County Clerk within six months of the date of this resolution.
- b. The Commission accepts the owner's proposal to record a conservation easement on the project site to protect it from future development once mining activity has ceased under the current proposal. As a result, once mining has ceased, the current owner, future owner, or successor shall not seek relief in the form of a hardship application for a development project on the project site, engage in development activity on the project site, nor apply for Pine Barrens Credits to obtain financial return on the project site. Development activity will not be permitted, and Pine Barrens Credits will not be issued on the project site. The property is effectively sterilized of its development rights at the time of this Waiver. The owner shall be allowed to deed the property to a municipal agency, non-profit organization or equivalent to obtain value for the underlying fee title. The restrictions herein shall be included in the language of the Conservation Easement.
- c. At the expiration of 6 months following the date of this resolution, if the language of a Conservation Easement has not been accepted by the Commission and a Conservation Easement acceptable to the Commission has not been filed with the Suffolk County Clerk, then the applicant shall cease all development activity on the site, including all mining activity, until a Conservation Easement is accepted by the Commission and filed in the Office of the Suffolk County Clerk.

- d. Provide copies of the Conservation Easement and mined land reclamation plans to the Town of Southampton and Suffolk County Department of Health Services, and file copies of the reclamation plans, with the Conservation Easement attached to the deed, in the Office of the Suffolk County Clerk.
9. Install a split rail fence on the “edge of clearing” on the south side of the site, adjacent to the area outside of the permitted 91 acre mine area to avoid disturbance, dumping, and encroachment into the existing, remaining 24 acres of natural wooded lands in the CGA-CRA.
10. Implement Best Management Practices on the project site, in accordance with the materials submitted in the application.

Resolved, a copy of this resolution shall be filed with the Suffolk County Clerk indexed against the property.

Record of Motion:

Decision (Approval):

Motion by: Ms. Throne-Holst
Seconded by: Mr. Walter
Yea Votes: 4
Nay Votes: 0
Abstain: Mr. Scully

Conservation Easement

THIS INDENTURE, made this 10 day of June, 2014,

Witnesseth:

Whereas, Westhampton Property Associates, Inc., ("Westhampton Property"), having its principal address at 928 Long Island Avenue, Deer Park, New York 11729, owns 115 acres of real property located in the Town of Southampton; and

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

Whereas, Westhampton Property operates a commercial sand mine enterprise that operates on the 91 acre portion of its property more particularly described in Schedule A attached hereto and made a part hereof (the "Property"); and

Whereas, the Property is located within the Central Pine Barrens as delineated in Article 57; and

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

Whereas, Westhampton Property, pursuant to Article 57 and the Plan applied to the Commission for a combined Core Preservation Area and Compatible Growth Area Critical Resource Area hardship exemption authorizing Westhampton Property to undertake certain activities on the Property related to its current use; and

Whereas, the Commission, by resolution dated October 17, 2012 issued a hardship exemption to Westhampton Property authorizing it to undertake certain activities on the Property as more fully described in the resolution which is set forth in Schedule B, attached hereto and made a part hereof; (the "Approval"); and

Whereas, the Approval contained certain conditions, which, among other things, required Westhampton Property to implement a restoration plan, at its own cost and expense, to improve and restore the Property's ecological, scientific, groundwater recharge, scenic, educational, recreational and aesthetic values after completion of the activities authorized by the Approval (the "Mine Restoration Plan") and to convey a conservation easement on the Property to ensure its use is consistent with the terms of the Approval and the Mine Restoration Plan; and

Whereas, Westhampton Property wishes to grant to the Commission this Conservation Easement pursuant to Title 3 of Article 49 of the Environmental Conservation Law (“ECL”), or its similar successor statute, and this Conservation Easement is intended to comply with said statute; and

Now, therefore, Westhampton Property, for and in consideration of the facts above and hereinafter recited including, but not limited to, grant of the Approval and the mutual covenants, terms, conditions and restrictions herein contained, does hereby give, grant, bargain, sell and convey unto the Commission, its successors and assigns forever a Conservation Easement in perpetuity over the Property consisting of the following:

1. The right of visual access to and view of the Property in its natural, scenic and open condition.
2. Westhampton Property's forbearance from taking any of those actions constituting development pursuant to ECL Section 57-0107(13) and Westhampton Property's forbearance from operations or uses pursuant to ECL Section 57-0107(13)(i-xiv) 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 Southampton or their respective agents, employees or other representatives, exercising 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) hereinabove shall not be defeated because of any subsequent adverse possession, laches, estoppel or waiver. The Commission or any party with a third party enforcement right or its respective agents, employees or other representatives shall be permitted access, if necessary, to cross other lands retained by Westhampton Property and to enter upon the Property at all reasonable times, but solely 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 Westhampton Property reasonable advance notice of its intention to enter and inspect the Property, and further such entrance and inspection shall be in a reasonable manner and at reasonable times. Furthermore, Westhampton Property shall provide any third party with enforcement rights, or its agents, representatives or employees, access to cross other lands retained by Westhampton Property, and permission to enter upon the Property, upon receipt of advance notice of such third party's intention to enter and inspect. Such entrance and inspection shall be in a reasonable manner and at reasonable times.

Covenants

In furtherance of the foregoing affirmative rights, Westhampton Property makes the following covenants, 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 Property in perpetuity:

1. There shall be no construction activity, alteration of vegetation or change in topography, no development as defined by ECL Section 57-0107(13) and no operations or uses not constituting development pursuant to ECL Section 57-0107(13)(i-xiv), unless otherwise expressly authorized by the Approval.
2. There shall be no storing, dumping, discharging or placing of any substance in or on the Property in contravention of any applicable federal, state or local law or ordinance.
3. Westhampton Property shall implement the Mine Restoration Plan and comply with the Provisions contained therein.

Reserved Rights

Nevertheless, and notwithstanding any of the foregoing provisions to the contrary and as expressly limited herein, Westhampton Property reserves for itself, its heirs, successors and assigns the following reserved rights in addition to all those rights previously retained, reserved and defined herein, which may be exercised without written notice to the Commission unless otherwise required by the Approval or the Mine Restoration Plan.

1. The right of exclusive possession of the Property.
2. The right to use the Property consistent with the terms of the Approval.
3. The right to implement the Mine Restoration Plan.
4. The right to use the Property for passive recreational activities such as, but not limited to, hunting, fishing, camping, hiking and activities associated therewith so long as such activities conform to local zoning regulations and do not constitute development as defined in ECL Section 57-0107(13).
5. The right to use the Property for operations or uses described in ECL Section 57-0107 (13) (i, ii and vi) upon approval of applicable Federal, State, and local agencies and upon the approval of the Commission, or environmental restoration projects commenced by Westhampton Property or its heirs, successors or assigns upon approval of applicable Federal, State, and local agencies and upon the approval of the Commission.

6. The right to sell, give or otherwise convey the Property or, consistent with the Covenants herein, any portion or portions of the Property, subject to the terms of this Conservation Easement. Westhampton Property, upon the sale, gift or other conveyance of its fee interest in the Property, shall have no further obligations or liabilities under this Conservation Easement. Westhampton Property shall promptly notify Commission of any conveyance of any interest in the Property, including the full names and mailing addresses of all grantees, and the individual principals thereof, under any such conveyance. The instrument of any such conveyance shall specifically set forth that the interest thereby conveyed is subject to this Conservation Easement, without modification or amendment of the terms of this Conservation Easement, and shall incorporate this Conservation Easement by reference, specifically setting forth the date, office, liber and page of the recording thereof. The failure of any such instrument to comply with the provisions hereof shall not affect the Commission's rights hereunder.

Rights of the Public

Nothing contained in this Conservation Easement shall give or grant to the public a right to enter upon or to use the Property or any portion thereof where no such right existed in the public immediately prior to the execution of this Conservation Easement except as may be granted by Westhampton Property herein or their successors.

Miscellaneous

1. The parties hereto understand and agree that all the terms and provisions of ECL, Title 3, Article 49, as the same may be hereafter amended, entitled Conservation Easements, shall apply to this Conservation Easement.
2. This Conservation Easement contains the entire understanding between its parties concerning its subject matter. Any prior agreement between the parties concerning its subject matter shall be merged into this Conservation Easement and superseded by it.
3. Any provision of this Conservation Easement restricting Westhampton Property's activities, which is determined to be invalid or unenforceable by a court, shall not be rendered a nullity. Instead, that provision shall be reduced or limited to whatever extent that the court determines will make it enforceable and effective. Any other provision of this Conservation Easement which is determined to be invalid or unenforceable by a court shall be severed from the other provisions, which shall remain enforceable and effective.
4. Regardless of any contrary rule of construction, no provision or alleged ambiguity of this Conservation Easement shall be construed in favor of one of the parties because it was drafted by the other party's attorney. If any provision of this

Conservation Easement is ambiguous or shall be subject to two or more interpretations, one of which would render that provision invalid, then that provision shall be given such interpretation as would render it valid and consistent with the purposes of this Conservation Easement as intended by Westhampton Property. Any rule of strict construction designed to limit the breadth of the restrictions on use of the Property shall not apply in the construction or interpretation of this Conservation Easement, and, this Conservation Easement shall be interpreted broadly to effect the purposes of this Conservation Easement as intended by Westhampton Property. The parties intend that this Conservation Easement, which is by nature and character primarily negative in that Westhampton Property has restricted and limited Westhampton Property's right to use the Property, except as otherwise recited herein, be construed at all times and by all parties to effectuate its purposes.

5. This Conservation Easement can be terminated only in accordance with the law of the State of New York applicable to the termination of easements and covenants running with the land. This Conservation Easement may be modified only upon the written consent of both Westhampton Property and the Commission, or their successors, heirs, representatives or assigns. Westhampton Property and the Commission recognize that circumstances could arise which would justify the modification of certain of the restrictions contained herein. To this end, the Commission and Westhampton Property shall mutually have the right, in their sole discretion, to agree to amendments to this Conservation Easement which are not inconsistent with the basic purpose of this Conservation Easement, provided, however, that the Commission shall have no right or power to agree to any amendments hereto that would result in this Conservation Easement failing to qualify as a valid conservation easement under ECL, Title 3, Article 49 as the same may be hereafter amended.
6. Westhampton Property agrees that the terms, conditions, restrictions and purposes of this Conservation Easement shall continue as a servitude running in perpetuity with the Property and will be incorporated by reference in any subsequent deed or other legal instrument by which Westhampton Property divests itself of either the fee simple title to, or its possessory interest in, the Property or any portion thereof specifically setting forth the date, and the liber and page of the Suffolk County Clerk's records of the recording hereof.
7. Any notices required in this Conservation Easement shall be written. Notices shall be given either by manual delivery or by mailing in a mail receptacle maintained by the United States Postal Service. Mailed notices must be contained in an accurately addressed, sealed envelope, marked for delivery by first class registered or certified mail, with sufficient prepaid postage affixed and with return receipt requested. Mailed notice to Westhampton Property shall be addressed to Westhampton Property's address as recited herein or to any such other address as

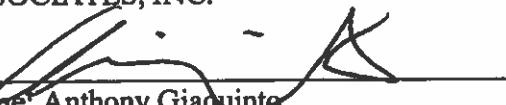
Westhampton Property may designate by notice in accordance with this section. Mailed notice to the Commission shall be addressed to the Commission's address as recited herein or to any such other address as the Commission may designate by notice in accordance with this section.

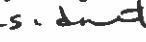
8. It is understood and agreed by the Parties hereto that the Westhampton Property, its successors, heirs and assigns, shall not be liable for any changes to the Property caused by any natural disaster or Act of God.
9. Westhampton Property and Westhampton Property's lessees, representatives, successors, heirs and assigns, shall not apply to the Commission or the Pine Barrens Credit Clearinghouse for a hardship, other permit or Pine Barrens Credits under the Plan or under ECL Article 57 pertaining to the Property. Westhampton Property understands and intends to sever the right to develop the Property from the Property.
10. Westhampton Property does further covenant and represent that Westhampton Property is seized of the Property in fee simple and has good right to grant and convey the aforesaid Conservation Easement, that the Property is free and clear of any and all encumbrances, other than those of record, and that the Commission shall have the use of, and enjoy all of the benefits derived from and arising out of, the aforesaid Conservation Easement.
11. The parties hereto recognize and agree that the benefits of this Conservation Easement are in gross and assignable, and the Commission hereby covenants and agrees that any transferee or assignee will be an organization or public body qualified to hold a Conservation Easement pursuant to ECL, Title 3, Article 49, as the same may be hereafter amended, and the regulations promulgated thereunder.
12. All references to statutory provisions of Article 57 shall be as such provisions were in effect on the date of execution of this Conservation Easement.

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

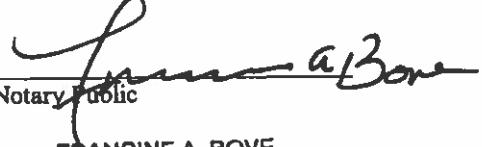
WESTHAMPTON PROPERTY
ASSOCIATES, INC.

By: 

Name: Anthony Giacinto
President 

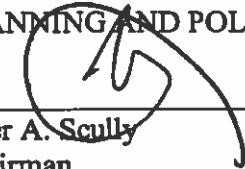
STATE OF NEW YORK)
COUNTY OF Suffolk ss.:

On the 30th day of April in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared Anthony Giacinto, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

FRANCINE A. BOVE
Notary Public, State of New York
No. 01BO8048059
Qualified in Suffolk County
Commission Expires Aug. 7, 2014

CENTRAL PINE BARRENS JOINT
PLANNING AND POLICY COMMISSION

By: 

Peter A. Scully
Chairman

STATE OF NEW YORK)
COUNTY OF SUFFOLK ss.:

On the 10th day of June in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared Peter A. Scully, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

CAROLE A. GAJEWSKI
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01-GA8192849
QUALIFIED IN SUFFOLK COUNTY
COMMISSION EXPIRES SEPT 02, 2016

SCHEDULE A

**RAYNOR, MARCKS and CARRINGTON
SURVEYING**
P.O. BOX 6027 ~ 77 JESSUP AVENUE
QUOGUE, N.Y. 11959
(516) 853-4068
(516) 853-8175 Fax

FLOYD CARRINGTON, LS, CPESC, CPSWC
LS. No. 49168
CPESC No. 5*58
CPSWC No. 0848

Description of a parcel of land situate in the hamlet of Westhampton, Town of Southampton, County of Suffolk, State of New York and more particularly described as follows:

Beginning at a point said point being the following two courses and distances from the intersection of the northerly side of Old Country Road and the easterly side of Speonk-Riverhead Road:

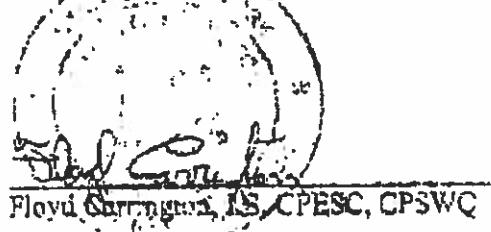
- 1) South 68° 31' 00" East 1343.25ft
- 2) North 09° 47' 20" East 1965.50ft

Thence North 09° 47' 20" East 7410.00ft along the easterly line of Map of Oishi Road Estate Company filed July 25, 1906 as Map number 451 to a point; Thence the following two courses and distances along the southerly side of the Sunrise Highway to a point:

- 1) along a curve to right in a northeasterly direction with a radius of 970.00ft and a length of 334.27ft.
- 2) North 82° 00' 12" East 236.74ft

Thence South 09° 47' 20" West 7716.71ft along lands now or formerly Bide-A-Wee House Association Inc. to a point. Thence North 80° 12' 40" West 520.04ft to the point of beginning.

Containing an area of 91.00000 acres



Floyd Carrington, LS, CPESC, CPSWC

SCHEDULE B



Commission Meeting of October 17, 2012 Brookhaven Town Hall

Present: Mr. Scully (New York State), Ms. Lansdale (Suffolk County),
Ms. Prusinowski (Brookhaven), Mr. Walter (Riverhead),
Ms. Throne-Holst (Southampton)

Adopted Resolution

Westhampton Property Associates Core Preservation Area Hardship and Compatible Growth Area Critical Resource Area Application

Property located on the south side of Sunrise Highway (SR 27), north side of
Old Country Road (CR 71), 500 feet east of 5th Avenue, in the hamlet of
Remsenburg/Speonk, Town of Southampton,
Suffolk County Tax Map #: 900-276-3-1 and 2

Whereas, on November 9, 2011, Westhampton Property Associates, LLC (the Applicant) by its representative Nelson Pope & Voorhis, LLC, filed with the Commission an application for development to expand the depth of an existing 91-acre sand and gravel mine (the Project); and

Whereas, the 91-acre mine is part of a 115 acre project site comprised of two parcels owned by the Applicant, in the Country Residence 200 (CR 200) Zoning District, in the Town Aquifer Protection Overlay District, hamlet of Remsenburg/Speonk, Town of Southampton, identified on the Suffolk County Tax Map as parcels 900-276-3-1 and 2, as per the map entitled "Sand Mine Plan and Profile" prepared by Raynor, Marcks & Carrington last dated August 4, 2011 (Sheets 1, 2, and 3); and

Whereas, 68.07 acres of the project site is located in the Core Preservation Area of the Central Pine Barrens; and

Whereas, 46.93 acres of the project site is located in the Compatible Growth Area and is designated as part of a Critical Resource Area (CRA) identified as S10 in Figure 4-6 in Chapter 4.5.4.1 of the Central Pine Barrens Comprehensive Land Use Plan (CLUP); and

Whereas, the features of CRA S10 are described in the CLUP as "Open space on northerly portion of site complements adjacent open space;" and

Whereas, the Project is a depth expansion of an existing sand mine, which is currently at an elevation of approximately 45 feet above sea level, to an elevation of approximately 26 feet above sea level, which will be a minimum of four feet and a maximum of six feet above the elevation of the groundwater table, depending on the seasonally varying height of the

P.O. Box 587
3525 Sunrise Highway
2nd Floor
Great River, NY
11739-0587

Phone (631) 224-2604
Fax (631) 224-7653
www.pb.state.ny.us

groundwater table; and

Whereas, other Project elements include the preparation and recording of a Conservation Easement on the 91-acre mine to preserve it when mining is completed; and restoration of the mine in accordance with a reclamation plan prepared by Nelson, Pope & Voorhis dated July 18, 2011; and

Whereas, the current New York State Department of Environmental Conservation (NYSDEC) mine permit expires in the year 2016; and a permit modification for the depth expansion was filed by the Applicant with NYSDEC; and

Whereas, the Project expands the area of mining on site and extends mining activity on site to the year 2041; and

Whereas, the Applicant submitted a Mine Restoration Plan for the site prepared by Nelson Pope & Voorhis dated July 18, 2011 and a narrative entitled "Mine Reclamation Plan" prepared by Nelson Pope and Voorhis. The Plan describes the implementation of an eight phase mine land reclamation plan. The Plan schedule indicates Phase 1 will commence in 2019, and Phase 8 will commence in 2041. Restoration monitoring spans from the year 2022 to 2047. The Plan legend lists the habitat types to be created as follows: 38.24 acres of pitch pine oak forest, 30.17 acres of meadow, 3.91 acres of wet meadow, 2.06 acres of vernal pools, and 16.32 acres of slope restoration area. The total area of reclamation is 90.7 acres; and

Whereas, the Project will not intercept groundwater elevation under the mine floor and will maintain a maximum vertical buffer of six feet to groundwater but which shall be no less than four feet; and

Whereas, the Project constitutes development pursuant to Environmental Conservation Law (ECL) §57-0107(13)(b) and (c), which states development includes, "*a material increase in the intensity of use of land or environmental impacts as a result thereof;*" and "*commencement of mining, excavation or material alteration of grade or vegetation on a parcel of land excluding environmental restoration activities,*" respectively; and

Whereas, the Project requires a Core Preservation Area Extraordinary Hardship, a discretionary action of the Commission; and

Whereas, the CRA portion is subject to the Review Procedures of the CLUP in Chapter 4 Section 4.5.5, *Development located within the Compatible Growth Area which is also located within a Critical Resource Area*, which states, "*The Act sets forth the jurisdiction for the Commission's review of development within the Compatible Growth Area of the Central Pine Barrens. Such review includes development that is located in Critical Resource Areas. The Act also authorizes the Commission, by majority vote, to waive strict compliance with this Plan upon finding that such waiver is necessary to alleviate a demonstrated hardship;*" and

Whereas, a public hearing was held on January 18, 2012, continued on February 15, 2012 and stenographic transcripts of the hearings were made available to the Commission; and

Whereas, on June 15, 2012, the Applicant submitted supplemental information including a report entitled "*Fiscal and Economic Impact Analysis and Assessment of Needs and Benefits*" prepared by Nelson, Pope & Voorhis, LLC dated June 15, 2012; and

Whereas, a second public hearing was held on July 18, 2012; and a stenographic transcript of the hearing was made available to the Commission; and

Whereas, at the July 18th hearing, the Commission inquired about potential impacts on the owner's business with respect to the availability of material to contractors; and

Whereas, on August 14, 2012, the Applicant submitted copies of letters received from contractors in support of the hardship waiver as it relates to their continued business with the Applicant and potential impacts if the hardship were not granted; and the letters were entered into the record for the Project in response to the Commission's inquiry at the public hearing; and

Whereas, the Town of Southampton submitted a copy of a letter to NYSDEC dated June 20, 2008 indicating the pre-existing nonconforming use of a sand mine and mining activities on site pre-date the Town Zoning Code, and the site's existing and continued use as a mine is grandfathered, and

Whereas, pursuant to the criteria contained in ECL §57-0121(10) (a) (i) through (iii), the Applicant has satisfied the conditions for and has demonstrated extraordinary hardship as the Project is unique since the site contains a pre-existing sand mine permitted and developed in 1981, prior to the Long Island Pine Barrens Protection Act of 1993 (the "Act"), with no disturbance to existing native vegetation or clearing beyond the existing extent of the currently permitted mine; and

Whereas, pursuant to the Applicant's demonstration of extraordinary hardship as per ECL §57-0121(10)(a), the Applicant has satisfied the conditions for demonstrating extraordinary hardship as the Applicant contends the business is family operated and planning for future business is an imminent concern; although the current permit term expires in 2016, the 16 acres of material left to mine will be extracted sooner than the current permit term extends; and, as shown in the record, the Applicant has no other beneficial use of the site if not used as a mine; and

Whereas, pursuant to the Applicant's demonstration of extraordinary hardship as per ECL §57-0107(1)(a)(i), the Project does not apply to or affect other properties in the immediate vicinity since other sand and gravel mines in the vicinity are in the CGA,

and much of the Core property in the vicinity of the site is preserved under public ownership; and

Whereas, the Applicant submitted an Environmental Assessment Form (EAF) Part I; and

Whereas, the Project is a Type I Action pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act, SEQRA), and the Commission performed a coordinated review for Lead Agency status with other Involved Agencies including the New York State Department of Environmental Conservation (NYSDEC) and the Town of Southampton Planning Board and requested to serve as Lead Agency by letter dated January 4, 2012, as per the Central Pine Barrens Comprehensive Land Use Plan Chapter 4 Section 4.5.1.1, *Lead Agency Assertion*; and

Whereas, no objection was raised by the NYSDEC or Town of Southampton concerning the Commission's request to assume Lead Agency status, and the Commission assumed Lead Agency; and

Whereas, an EAF Part II was prepared and reviewed by the Commission; and no significant adverse environmental impacts were identified in the SEQRA process; and

Whereas, pursuant to New York State Environmental Conservation Law (ECL) Article 8 (State Environmental Quality Review Act (SEQRA) and its implementing regulations 6 NYCRR Part 617, the Commission has considered the relevant areas of potential environmental impacts applicable to the Project and has applied the Criteria for Determining Significance contained in 6 NYCRR Part 617, section 617.7(c), and

Whereas, the Project will not generate objectionable odors, will not install any stationary sources of air emissions and will continue to manage the mine within its current operating parameters using the same machinery as before with no significant increase in air emissions; therefore, as a result, the Project will not result in any significant adverse impact on air quality, and

Whereas, although the Project will decrease the vertical distance to groundwater, the review of the record indicates the Project will not generate sanitary flow which will obviate the potential for groundwater contamination by constituents in effluent; will not create sources of nitrate-nitrogen as it will exclude fertilizer-dependent vegetation that could potentially enter groundwater; will not engage in any industrial processes, storage of toxic materials or fueling operations that could adversely impact groundwater; will not generate significant discharges of effluent; is not located near any public water supply wells and the project site does not contain a private well; therefore the Project will not result in any adverse impacts to groundwater and complies with CLUP Standard 5.3.3.1.1 regarding Suffolk County Sanitary Code Article 6 compliance, Standard 5.3.3.1.2 regarding Sewage treatment plant discharge, Guideline 5.3.3.1.3 regarding Nitrate-nitrogen goal, Standard 5.3.3.2.1 regarding Suffolk County Sanitary Code Articles 7 and

12 compliance, Standard 5.3.3.3.1 regarding Significant discharges and public supply well locations and Guideline 5.3.3.3.2 regarding Private well protection, and

Whereas, the Project will not result in any adverse impacts to groundwater located in Hydrogeologic Zone III, a deep-recharge zone, as the Project preserves the hydrologic functions and groundwater quality of the Core, pursuant to the goals and objectives in Environmental Conservation Law Article 57, §57-0121(3), and

Whereas, the record indicates there are no wetlands or surface waters located either on or in proximity to the project site and the project site is not located within a Wild, Scenic and Recreational River corridor; therefore, the Project will not result in any significant adverse impacts on wetlands, surface waters or a Wild, Scenic and Recreational River corridor and, as a result, CLUP Standard 5.3.3.4.1 regarding Nondisturbance buffers, Standard 5.3.3.4.2 regarding Buffer delineations, covenants and conservation easements, Standard 5.3.3.4.3 regarding Wild, Scenic and Recreational Rivers Act compliance and Guideline 5.3.3.4.4 regarding Additional nondisturbance buffers are not applicable to the Project, and

Whereas, according to the record, all stormwater generated on the project site will be recharged on site, will be controlled during mining operations and will not impact adjacent properties nor any surface waters or wetlands; no drainage systems or recharge basins are proposed on the project site and vernal pools to be created by the project will be perched above the groundwater table and will serve to receive stormwater runoff as well as to establish new habitat areas; therefore, the Project will not result in any significant adverse impacts due to stormwater runoff, will not increase the potential for erosion, will not cause flooding and will not cause drainage problems, and, as a result, the project will comply with CLUP Standard 5.3.3.5.1 regarding Stormwater recharge, Guideline 5.3.3.5.3 regarding the creation of ponds and Guideline 5.3.3.5.5 regarding Soil erosion and stormwater runoff control during construction while Guidelines 5.3.3.5.2 regarding Natural recharge and drainage and 5.3.3.5.4 regarding Natural topography in lieu of recharge basins are not applicable, and

Whereas, as the Project will be managed within its current operating parameters, there will be no substantial net increase in traffic generation, truck trips and noise nor a significant net increase in solid waste production and

Whereas, the project site was legally approved for mining prior to the adoption of the Long Island Pine Barrens Protection Act and, as a result, the majority of the project site was previously disturbed, cleared, and excavated, and

Whereas, that portion of the project site within the Core Preservation Area was one of the areas that was previously cleared and excavated and is therefore devoid of any existing natural vegetation and wildlife habitat, and

Whereas, the Project will clear an additional area of 10 acres comprised of commercial nursery vegetation pursuant to the life of mine permit issued by the New York State Department of Environmental Conservation and which predates the Act, and

Whereas, a 3.08 acre portion of the existing nursery, that is not approved for mining under the existing life of mine permit, will remain in its current state and will revert to natural conditions to provide new natural habitat in the future and an existing 10.92 acre area of pine barrens habitat on the southern end of the property will remain intact under the Project, and

Whereas, no rare, endangered, threatened or special concern species of plants or animals nor their habitats have been identified on the project site, and

Whereas, as a result of the lack of vegetation in that portion of the project site located in the Core Preservation Area and in the majority of the Compatible Growth Area and the lack of native vegetation on the affected 10-acre nursery area, the Project will not result in significant adverse impacts on vegetation, and

Whereas, due to the lack of native-vegetated habitat within the project site, the Project will not result in the removal or destruction of large quantities of fauna; will not cause substantial interference with any resident or migratory wildlife; will not adversely impact a significant habitat area nor cause significant adverse impacts to rare, endangered, threatened or special concern species of plants or animals; and

Whereas, when reclaimed at the end of mining activity, the Project will provide a replanted natural habitat area comprised of native pine barrens plant material which is consistent with the surrounding pine barrens vegetational communities in which no fertilizer-dependent vegetation is to be installed and which will allow for connections to be made with nearby open space areas, and, as a result, the Project will be consistent with CLUP Standard 5.3.3.6.1 regarding Vegetation Clearance Limits, Standard 5.3.3.6.2 regarding unfragmented open space, Standard 5.3.3.6.3 regarding fertilizer-dependent vegetation and Standard 5.3.3.6.4 regarding native plantings, and

Whereas, although the project site is not located within a Critical Environmental Area and will therefore not result in significant adverse impacts on said area's designated environmental characteristics, a portion of the project site within the Compatible Growth Area also lies within Critical Resource Area S10, "Upland Forest Westhampton," which was designated as such because "*Open space on northerly portion of site complements adjacent open space*," and

Whereas, pursuant to Section 4.5.4.2 of the CLUP, the Commission is required to address "*the protection for the critical resource feature(s)*" of the Critical Resource Area designated in the Plan, and

Whereas, because the majority of the project site has already been previously disturbed and cleared and is privately owned, there is no existing protected open space on

the project site to complement any adjacent open space, and therefore, the Project will not result in any significant adverse impacts to the critical resource features of Critical Resource Area S10, and

Whereas, the natural pitch pine-oak woodland in the southern end of the Compatible Growth Area portion of the project site will remain in its current natural state and will continue to complement the open space within the Critical Resource Area, and

Whereas, the record indicates that the mine reclamation that will occur upon completion of the Project will complement the contiguous open space through revegetation with native pine barrens vegetation and by “expanding the unfragmented open space continuum,” and

Whereas, the Project is consistent with community plans, including the CLUP, will not result in a major change in use in the quantity or type of energy, will not create a hazard to human health, will not result in a substantial change in use, will not induce the attraction of large numbers of persons and will not cause significant adverse or cumulative impacts, and

Whereas, the record indicates the project site does not contain any significant archaeological or historical resources, in particular because of the significant amount of prior ground disturbance that previously occurred prior to the Act; therefore, the Project will not result in any significant adverse impacts to archaeological or historical resources, and

Whereas, the project site does not contain any significant aesthetic resources due to its previously-disturbed conditions and will not have any significant adverse impacts on aesthetic or scenic resources as a result and also due to the fact that the Project will preserve the character of the Core Preservation Area, as it will retain the existing naturally-vegetated buffer adjacent to New York State 27, a Scenic Road identified in Volume 2 of the CLUP, and will continue to not be visible from Route 27 and adjacent roadways, and

Whereas, the Commission has considered all materials submitted in connection with the application, now, therefore, be it,

Resolved, the above recitals are incorporated herein and made a part hereof; and be it further

Resolved, that pursuant to New York State Environmental Conservation Law (ECL) Article 8 (State Environmental Quality Review Act (SEQRA)) and its implementing regulations 6 NYCRR Part 617, the Commission hereby adopts a Negative Declaration pursuant to SEQRA for the Project, for the reasons set forth in this resolution, and be it further

I. Core Preservation Area Hardship Determination

Resolved, that the Commission hereby determines the application, as submitted, meets the criteria for Core Preservation Area Hardship based on extraordinary hardship pursuant to New York State ECL §57-0121(10) (b) and (c); and be it further

Resolved, the Commission finds the instant Core Hardship Waiver is not inconsistent with the purposes, objectives, or general spirit and intent of the Act; and be it further

Resolved, pursuant to ECL §57-0121(10)(a)(i) through (ii), the Commission finds that the Applicant has satisfied the conditions for and has demonstrated extraordinary hardship as the project site was developed and permitted as a sand mine prior to the Act; the Project will occur in the existing disturbed area of the project site, which was developed prior to the Act; the hardship does not apply to other properties in the immediate vicinity, since many other properties in the Core are under public ownership and other developed properties in the vicinity are in Compatible Growth Area; the development activity arises out of the characteristics of the subject property rather than the personal situation of the Applicant; and based on the review of existing regulations in effect on the project site and through the recording of a Conservation Easement on the 91 acre mine, the mine site will be protected from future development, especially that which could impact the environment and that once mining activity has ceased and restoration will occur in accordance with the Reclamation Plan, the Project is not expected to result in significant adverse environmental impacts; and be it further

Resolved, pursuant to ECL §57-0121(10)(c)(i), the Commission finds that the Applicant has satisfied the conditions for and has demonstrated extraordinary hardship as the Project involves no disturbance to existing natural vegetation; therefore, the Project will not be materially detrimental or injurious to other property or improvements in the area because the property in the vicinity of the site is also in the Core, is under public ownership, already developed, or not developable; the Project does not result in endangering public safety or substantial impairment of the resources of the Core; and the Applicant has met these additional standards for granting a Hardship Waiver in the Core due to site development as a mine prior to the Act and the continued use of the site as a sand mine, and the Project avoids disturbance to existing natural vegetation in the Core; and be it further

Resolved, no groundwater impacts in Hydrogeologic Zone III shall occur as the record demonstrates the Project will maintain a vertical buffer of 4 to 6 feet above the groundwater table, will not intercept groundwater below the mine floor elevation, will not generate sewage or discharge effluents that could contaminate groundwater, will not engage in the storage of toxic materials so as to adversely impact the underlying aquifer, will store all fuel in accordance with all local, County and State regulations and will adequately control stormwater and the Project preserves the hydrologic functions and groundwater quality of the Core, pursuant to the goals and objectives in ECL §57-0121(3), and be it further

Resolved, the Project will preserve the character of the Core Preservation Area, as the Project will not result in the removal of any natural vegetation from the Core Preservation Area; will retain the existing naturally vegetated buffer to NYS Route 27, a Scenic Road identified in Volume 2 of the CLUP, and it will continue to not be visible from Route 27 and adjacent roadways and will establish a new revegetated area upon cessation of mining which will further bolster the Route 27 buffer; and be it further

Resolved, pursuant to ECL §57-0121(10)(c)(iii), the waiver is the minimum relief necessary to relieve the extraordinary hardship on behalf of the Applicant and meets the needs of the business as the Project will not result in a lateral expansion beyond the existing NYSDEC life of mine permitted boundaries, will not expand the mine into the Compatible Growth Area beyond the existing NYSDEC life of mine permitted boundaries, will not expose groundwater and will not vertically expand the mine below the groundwater table; the Project avoids significant adverse environmental impacts, continues a pre-existing industrial land use in the Core, and avoids new construction and disturbance to natural vegetation in the Core via the applicant's offer to subject the project area to a Conservation Easement which obviates further development after cessation of the mining activity approved herein; and be it further

Resolved, the Applicant has demonstrated that the mined materials from the project site represent a commodity which is valuable and necessary to the local and regional economy and has demonstrated that there are specific commercial entities which are dependent on supplies of mined materials generated by the mine and which are particular to its geographic location and quality and grade of material; and be it further

Resolved, the Commission finds that the project site does not have a beneficial use other than a sand mine due to the location of the site, its lack of proximity to certain utilities and highway access, adjacent uses, zoning, the Applicant's investment in equipment and support services required for mining and market forces, and the interruption or cessation in the mine operation would result in financial hardship to the Applicant and contractors to whom it supplies materials; and be it further

Resolved, the Commission acknowledges that the Applicant offered to the Commission a Conservation Easement on the 91-acre sand mine site and the Commission accepts said Conservation Easement from the Applicant on the 91 acre sand mine which will be granted to the Commission, will be recorded on the 91 acre mine and will aim to preserve the resources of the project site in the Core and in the CGA-CRA, with the Applicant reserving rights to the current and continued use of the existing 91 acre mining land use through to the end of the expansion approved herein; and be it further

Resolved, no other use, development activity, or expansion of existing use on the 91-acre mine is permitted; and no future development activity beyond this Waiver is permitted on the 91 acre site mine; and be it further

Resolved, the Commission finds that the Project is consistent with Article 57 of the New York State Environmental Conservation Law, and the Applicant has

demonstrated it has met the criteria necessary for the issuance of a Core hardship waiver; and be it further

II. Critical Resource Area and Compatible Growth Area

Resolved, the Commission determines that the Applicant has demonstrated compliance with the standards and guidelines set forth in Volume 1, Chapter 5 of the Central Pine Barrens Comprehensive Land Use Plan (“the CLUP”), and the area of the CRA that is not subject to past and currently permitted mining activity will remain subject to the provisions that require Commission review of a CRA; and be it further

Resolved, the sand mine pre-dates the Act and the CLUP; therefore, the CRA portion of the 91 acre mine will continue to be mined and will be expanded in depth under the Project; the existing open space of the CRA, to which the project site is partially connected, will continue in its existing state, and once the Conservation Easement is recorded, that portion of the project site within the CRA will be protected from future development; and be it further

Resolved, the remaining 24 acres in the CRA are currently wooded and no development activity is proposed under the Project; therefore, it will remain in its natural state under the Project; in the future if development activity, as per the Act, is proposed in the CRA, it is subject to Commission review in accordance with the CLUP; and be it further

III. Plans and Monitoring

Resolved, the Commission accepts the Project’s Mine Restoration Plan prepared by Nelson Pope & Voorhis dated July 18, 2011 and a narrative entitled “Mine Reclamation Plan” prepared by Nelson Pope and Voorhis and requires the applicant to submit to the Commission, within 30 days of any changes, any and all revised versions of the Reclamation Plan and narrative in the future; and be it further

Resolved, based on current plans, mining is expected to cease completely on the project site by 2041, with reclamation occurring until the year 2048; and if the Applicant applies to NYSDEC for permit extensions or renewals to complete mining to the permitted depth, no additional deepening of the mine floor elevation shall be permitted below the Project elevation of six feet above groundwater; and be it further

Resolved, the Commission accepts the Applicant’s offer to submit monitoring reports that would provide quarterly and annual monitoring reports to document seasonal groundwater elevations and requires the applicant to submit monitoring reports quarterly and to also submit an annual report based on the prior year’s four quarters. In the event groundwater is intercepted at any time during mining operations, the Applicant shall immediately stop its mining operations, shall immediately notify the Commission and

shall not recommence mining operations until it has received written Commission authorization to do so; and be it further

IV. Conditions of Approval

Resolved, that the Commission approves the Project in accordance with the Sand Mine Plan and Profile prepared by Raynor, Marcks & Carrington last dated August 4, 2011 (Sheets 1, 2, and 3) and all application materials and submissions to date, subject to the following specific conditions:

1. Obtain other permits and approvals, as required by law, prior to commencement of the project. Copies of other agency approvals shall be forwarded to the Commission office within 30 days of their issuance.
2. Prior to commencement of new mining authorized by this approval, the applicant shall submit, at that time, the most current version of the Project's Mine Restoration Plan and Mine Reclamation Plan narrative and the applicant shall submit to the Commission, within 30 days of any changes, any and all revised versions of the Reclamation Plan and narrative in the future.
3. Mining activity on the existing 91 acre mine will continue and be expanded in depth to a maximum mine floor elevation of approximately 26 feet above sea level and a minimum of 4 feet and a maximum of six feet above groundwater, based on seasonal groundwater elevation.
4. Groundwater monitoring
 - a. Maintain a minimum six foot buffer from the mine floor to existing groundwater elevation to preserve the hydrologic functions of the Pine Barrens.
 - b. Conduct quarterly monitoring of fluctuating groundwater elevations to ensure the six foot buffer is maintained.
 - c. Submit quarterly and annual groundwater elevation monitoring reports to the Commission through the end of mining activity on the project site, which is currently projected to end in the year 2041.
 - d. In the event groundwater is intercepted at any time during mining operations, the Applicant shall immediately stop its mining operations, shall immediately notify the Commission and shall not recommence mining operations until it has received written Commission authorization to do so.
5. No change in land use or zoning on the project site.

6. No expansion of the mine, existing mine use, depth of mine, lateral or vertical extent beyond the current proposal on the 91-acre sand mine.
7. Any other development activity on the project site, as per the Act, is subject to Commission jurisdiction, review, and a discretionary decision. However, this statement does not constitute an approval of or recommendation for said future development activity.

8. Conservation Easement

- a. Prepare a Conservation Easement (CE) for the 91 acre mine site, and record the Conservation Easement in the Office of the Suffolk County Clerk within six months of the date of this resolution after the Commission approves the same. Prior to filing with the County Clerk, the Applicant shall submit a draft of same to the Commission for its approval. If approved by the Commission the CE shall be filed promptly with the Suffolk County Clerk. If rejected, the Applicant shall revise the draft CE as per the Commission's comments and resubmit the same for its approval. This cycle shall continue until the Commission approves the CE. The Applicant shall record the Commission-approved CE with the Suffolk County Clerk within six months of the date of this resolution.
- b. The Commission accepts the owner's proposal to record a conservation easement on the project site to protect it from future development once mining activity has ceased under the current proposal. As a result, once mining has ceased, the current owner, future owner, or successor shall not seek relief in the form of a hardship application for a development project on the project site, engage in development activity on the project site, nor apply for Pine Barrens Credits to obtain financial return on the project site. Development activity will not be permitted, and Pine Barrens Credits will not be issued on the project site. The property is effectively sterilized of its development rights at the time of this Waiver. The owner shall be allowed to deed the property to a municipal agency, non-profit organization or equivalent to obtain value for the underlying fee title. The restrictions herein shall be included in the language of the Conservation Easement.
- c. At the expiration of 6 months following the date of this resolution, if the language of a Conservation Easement has not been accepted by the Commission and a Conservation Easement acceptable to the Commission has not been filed with the Suffolk County Clerk, then the applicant shall cease all development activity on the site, including all mining activity, until a Conservation Easement is accepted by the Commission and filed in the Office of the Suffolk County Clerk.

- d. Provide copies of the Conservation Easement and mined land reclamation plans to the Town of Southampton and Suffolk County Department of Health Services, and file copies of the reclamation plans, with the Conservation Easement attached to the deed, in the Office of the Suffolk County Clerk.
9. Install a split rail fence on the “edge of clearing” on the south side of the site, adjacent to the area outside of the permitted 91 acre mine area to avoid disturbance, dumping, and encroachment into the existing, remaining 24 acres of natural wooded lands in the CGA-CRA.
10. Implement Best Management Practices on the project site, in accordance with the materials submitted in the application.

Resolved, a copy of this resolution shall be filed with the Suffolk County Clerk indexed against the property.

Record of Motion:

Decision (Approval):

Motion by: Ms. Throne-Holst

Seconded by: Mr. Walter

Yea Votes: 4

Nay Votes: 0

Abstain: Mr. Scully



**Combined Real Estate
Transfer Tax Return,
Credit Line Mortgage Certificate, and
Certification of Exemption from the
Payment of Estimated Personal Income Tax**

Recording office time stamp

See Form TP-584-1, Instructions for Form TP-584, before completing this form. Print or type.

Schedule A — Information relating to conveyance

Grantor/Transferor		Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor) Westhampton Property Associates, Inc.	Social security number		
<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input type="checkbox"/> Other		Mailing address 429 Carls Path	Social security number		
		City Deer Park	State NY	ZIP code 11729	Federal EIN 20-5029516
		Single member's name if grantor is a single member LLC (see instructions)			Single member EIN or SSN
Grantee/Transferee		Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee) Central Pine Barrens Joint Planning and Policy Commission	Social security number		
<input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other		Mailing address 624 Old Riverhead Road	Social security number		
		City Westhampton Beach	State NY	ZIP code 11978	Federal EIN 11-3286762
		Single member's name if grantee is a single member LLC (see instructions)			Single member EIN or SSN

Location and description of property conveyed

Tax map designation - Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
900-276-3-1 and 2	473689	S/s Sunrise Highway	Southampton	Suffolk

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house	5 <input type="checkbox"/> Commercial/Industrial	Date of conveyance	Percentage of real property conveyed which is residential real property _____ % (see instructions)
2 <input type="checkbox"/> Residential cooperative	6 <input type="checkbox"/> Apartment building	month	day
3 <input type="checkbox"/> Residential condominium	7 <input type="checkbox"/> Office building	year	
4 <input type="checkbox"/> Vacant land	8 <input checked="" type="checkbox"/> Other Easement		

Condition of conveyance (check all that apply)

a. Conveyance of fee interest

b. Acquisition of a controlling interest (state percentage acquired _____ %)

c. Transfer of a controlling interest (state percentage transferred _____ %)

d. Conveyance to cooperative housing corporation

e. Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E)

f. Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)

g. Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)

h. Conveyance of cooperative apartment(s)

i. Syndication

j. Conveyance of air rights or development rights

k. Contract assignment

l. Option assignment or surrender

m. Leasehold assignment or surrender

n. Leasehold grant

o. Conveyance of an easement

p. Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)

q. Conveyance of property partly within and partly outside the state

r. Conveyance pursuant to divorce or separation

s. Other (describe) _____

For recording officer's use	Amount received Schedule B., Part I \$ _____ Schedule B., Part II \$ _____	Date received	Transaction number

Schedule B — Real estate transfer tax return (Tax Law, Article 31)**Part I — Computation of tax due**

1 Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) **Exemption claimed**

2 Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)

3 Taxable consideration (subtract line 2 from line 1)

4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3

5 Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)

6 Total tax due* (subtract line 5 from line 4)

1.		
2.		
3.		
4.		
5.		
6.		

Part II — Computation of additional tax due on the conveyance of residential real property for \$1 million or more

1 Enter amount of consideration for conveyance (from Part I, line 1)

2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A)

3 Total additional transfer tax due* (multiply line 2 by 1% (.01))

1.		
2.		
3.		

Part III — Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) a

b. Conveyance is to secure a debt or other obligation b

c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance c

d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts d

e. Conveyance is given in connection with a tax sale e

f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F f

g. Conveyance consists of deed of partition g

h. Conveyance is given pursuant to the federal Bankruptcy Act h

i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property i

j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment j

k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) k

*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)**Complete the following only if the interest being transferred is a fee simple interest.**

I (we) certify that: (check the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is not principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.
3. Other (attach detailed explanation).
 - The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
 - 4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the NYC Department of Finance.)

Signature (both the grantor(s) and grantees(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

Westhampton Property Associates, Inc.

By:

Grantor signature

Title



Grantee signature

Chairman

Title

Grantor signature

Title

Grantee signature

Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the NYC Department of Finance? If no recording is required, send your check(s), made payable to the Department of Taxation and Finance, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)**Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.****If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under *Exemptions for nonresident transferor(s)/seller(s)* and sign at bottom.****Part I - New York State residents**

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, each resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

Part II - Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. Each nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ to _____ (see instructions).
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Combined Real Estate Transfer Tax Return
Credit Line Mortgage Certificate, and
Certification of Exemption from the
Payment of Estimated Personal Income Tax

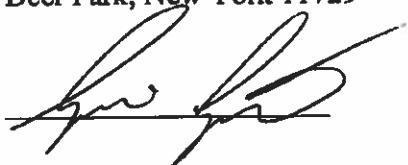
Conservation Easement
Additional Grantors

Consent Agreement between Westhampton Property Associates, Inc., Giovanni Giaquinto a/k/a John Giaquinto, Giaquinto Masonry, Inc., Giaquinto Brothers, LLC, Tristate Capital Bank, and Central Pine Barrens Joint Planning and Policy Commission

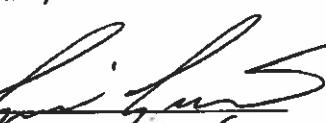
SCTM #900-276-3-1 and 2

Grantors

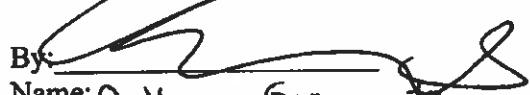
Giovanni Giaquinto a/k/a John Giaquinto
429 Carlls Path
Deer Park, New York 11729



Giaquinto Masonry, Inc.
429 Carlls Path
Deer Park, New York 11729

By: 
Name: Giovanni Giaquinto
Title: President
Federal Identification Number: 112493746

Giaquinto Brothers, LLC
429 Carlls Path
Deer Park, New York 11729

By: 
Name: Anthony Giaquinto
Title: Managing Member
Federal Identification Number: 113547876

Grantee

Central Pine Barrens Joint Planning and Policy Commission
624 Old Riverhead Road
Westhampton Beach, New York 11978
Federal Identification Number: 11-3286762

Consent and Non-Disturbance Agreement

This Agreement, made this 10 day of July, 2014.

Witnesseth

Whereas, Westhampton Property Associates, Inc., with offices at 429 Carlls Path, Deer Park, New York 11729, ("Westhampton Property") owns 115 acres of real property located in the Town of Southampton as described in Schedule A attached hereto and made a part hereof (the "Property"), and

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

Whereas, the Property is located within the Central Pine Barrens as delineated in Article 57, and

Whereas, Westhampton Property has received approval from the Commission to undertake certain land use activities on 91 acres of the Property and as a condition of such approval, the Commission requires that Westhampton Property grant to the Commission a Conservation Easement on the Property, and

Whereas, Westhampton Property, Giovanni Giaquinto a/k/a John Giaquinto, 429 Carlls Path, Deer Park, New York 11729 ("Giaquinto"), Giaquinto Masonry, Inc., with offices at 429 Carlls Path, Deer Park, New York 11729 ("Giaquinto Masonry") and Giaquinto Brothers LLC, a New York limited liability company, with offices at 429 Carlls Path, Deer Park, New York 11729 ("Giaquinto Brothers") have executed an Amended, Consolidated and Restated Mortgage on the Property, which among other things, consolidated four other mortgages onto the Property, as more fully described herein, and

Whereas, Giovanni and Giaquinto Masonry granted Banco Popular North America a mortgage dated October 4, 2006 in the amount of \$3,160,000 and recorded on November 6, 2006 at Liber 21414 page 140 in the indexes of mortgages of the Suffolk County Clerk on property Giaquinto and Giaquinto Masonry own ("Mortgage One"), and

Whereas, Giaquinto and Giaquinto Brothers LLC, granted Banco Popular North America a mortgage dated October 4, 2006 in the amount of \$1,365,000 and recorded on November 6, 2006 at Liber 21414 page 139 in the indexes of mortgages of the Suffolk County Clerk on property Giaquinto and Giaquinto Brothers own ("Mortgage Two"), and

Whereas, Westhampton Property Associates, Inc. granted Banco Popular North America a mortgage dated October 4, 2006 in the amount of \$11,250,000 and recorded on October 13, 2006 at Liber 21400 page 851 in the indexes of mortgages of the Suffolk County Clerk on the Property ("Mortgage Three"), and

Whereas, Westhampton Property, Giaquinto, Giaquinto Masonry and Giaquinto Brothers executed a Consolidation, Modification and Spreader Agreement with Banco Popular North America dated August 23, 2010 and recorded on January 3, 2011 at Liber 22025 page 802 in the indexes of mortgages of the Suffolk County Clerk, which instrument spread the liens of Mortgage One and Mortgage Two onto the Property and the lands affected by Mortgage One and Mortgage Two and consolidated Mortgage One and Mortgage Two with Mortgage Three, to form a single lien of \$13,000,000 on the Property and the other lands affected by Mortgage One and Mortgage Two, and

Whereas, Westhampton Property, Giaquinto, Giaquinto Masonry and Giaquinto Brothers granted Tristate Capital Bank, a Pennsylvania state chartered bank having an office at One Oxford Centre, 301 Grant Street, Suite 2700, Pittsburgh, Pennsylvania, 15219 ("Tristate Capital") a mortgage dated April 10, 2013 in the amount of \$1,478,481.20 and recorded on August 28, 2013 at Liber 22385 page 564 in the indexes of mortgages of the Suffolk County Clerk on the Property ("Mortgage Four"), and

WHEREAS, Westhampton Property, Giaquinto, Giaquinto Masonry and Giaquinto Brothers executed an Amended, Consolidated, and Restated Mortgage Note (the "Mortgage and Note") with Tristate Capital dated April 4, 2013 and recorded on August 28, 2013 at Liber 22385 page 565 in the indexes of mortgages of the Suffolk County Clerk, and

WHEREAS, the Mortgage and Note consolidated Mortgage One, Mortgage Two, Mortgage Three and Mortgage Four to form a single lien of \$12,000,000 on the Property and the other lands affected by Mortgages One, Two, Three and Four, and

WHEREAS, the Commission requires that Westhampton Property, Giaquinto, Giaquinto Masonry, and Giaquinto Brothers and Tristate Capital consent to the recording of the Conservation Easement and agree not to disturb or vacate the Conservation Easement in the event the Mortgage and Note is foreclosed and has further requested that this Consent and Non-Disturbance Agreement (the "Agreement") be recorded simultaneously therewith.

NOW THEREFORE, in consideration of the facts above and hereinafter recited, Westhampton Property, Giaquinto, Giaquinto Masonry, and Giaquinto Brothers and Tristate Capital do hereby consent to the recording of the Conservation Easement simultaneously herewith and further agree as follows:

1. The Mortgage and Note is made subordinate to the Conservation Easement.
2. Westhampton Property, Giaquinto, Giaquinto Masonry, and Giaquinto Brothers

and Tristate Capital agree that the Conservation Easement shall take precedence of and have priority over the Mortgage and Note for all purposes.

3. Westhampton Property, Giaquinto, Giaquinto Masonry, and Giaquinto Brothers and Tristate Capital further agree not to disturb, vacate or foreclose the Conservation Easement in the event the Mortgage and Note is foreclosed.
4. Westhampton Property, Giaquinto, Giaquinto Masonry, and Giaquinto Brothers and Tristate Capital agree that the Conservation Easement shall be unaffected by the exercise of any right granted onto the parties by the Mortgage and Note and such action shall in no manner impair, diminish, reduced or modify the Conservation Easement.

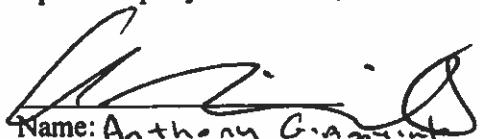
This Agreement contains the entire understanding between its parties concerning its subject matter. Any prior agreement between the parties concerning its subject matter shall be merged into this Agreement and superseded by it. This Agreement shall bind Westhampton Property, Giaquinto, Giaquinto Masonry, and Giaquinto Brothers and Tristate Capital, their heirs, successors and assigns. This Agreement may be modified only upon the written consent of Westhampton Property, Giaquinto, Giaquinto Masonry, and Giaquinto Brothers and Tristate Capital and the Commission, or their successors, heirs, representatives or assigns.

INTENTIONALLY LEFT BLANK
CONTINUED ON NEXT PAGE

IN WITNESS WHEREOF, Westhampton Property, Inc., Giovanni Giaquinto a/k/a John Giaquinto, Giaquinto Masonry, Inc. and Giaquinto Brothers, LLC and Tristate Capital have executed and delivered and the Commission has accepted and received this Agreement on the day and year set forth above.

Westhampton Property Associates, Inc.

By:



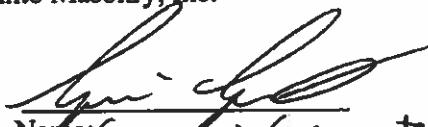
Name: Anthony Giaquinto
Title: Pres. & Dir.



Giovanni Giaquinto a/k/a John Giaquinto

Giaquinto Masonry, Inc.

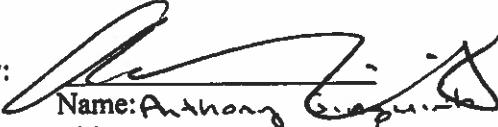
By:



Name: Giovanni Giaquinto
Title: Pres. & Dir.

Giaquinto Brothers, LLC

By:



Name: Anthony Giaquinto
Title: Managing Member

Tristate Capital Bank

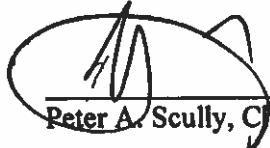
By:



Name: Robert Gambitsky
Title: Senior Vice President

Central Pine Barrens Joint
Planning and Policy Commission

By:



Peter A. Scully, Chairman

ACKNOWLEDGMENTS

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.:

On the 10th day of June in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared Peter A. Scully, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Carole A. Gajewski
Notary Public

CAROLE A. GAJEWSKI
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01-GA6192849
QUALIFIED IN SUFFOLK COUNTY
COMMISSION EXPIRES SEPT 02, 2016

STATE OF NEW YORK)
COUNTY OF _____) ss.:

On the _____ day of _____ in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Carole A. Gajewski
Notary Public

CAROLE A. GAJEWSKI
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01-GA6192849
QUALIFIED IN SUFFOLK COUNTY
COMMISSION EXPIRES SEPT 02, 2016

STATE OF NEW YORK)
COUNTY OF Suffolk) ss.:

On the 30th day of April in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared Frances A. Bove, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Frances A. Bove
Notary Public

FRANCINE A. BOVE
Notary Public, State of New York
No. 01BO6048059
Qualified in Suffolk County
Commission Expires Aug. 7, 2014

STATE OF NEW YORK)
COUNTY OF Suffolk) ss.:

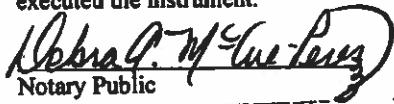
On the 30th day of April in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared Frances A. Bove, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Frances A. Bove
Notary Public

FRANCINE A. BOVE
Notary Public, State of New York
No. 01BO6048059
Qualified in Suffolk County
Commission Expires Aug. 7, 2014

STATE OF NEW YORK)
COUNTY OF New York) ss.:

On the 23rd day of April in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared Robert Gambitsky, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.


Debra A. McCue-Perez
Notary Public

DEBRA A. McCUE-PEREZ
Notary Public, State of New York
No. 01MC4802371
Qualified in Dutchess County
Cert. Filed in New York County
Commission Expires 07-31-2014

STATE OF NEW YORK)
COUNTY OF _____) ss.:

On the _____ day of _____ in the year 2014 before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

For Use Outside of New York State

STATE OF _____)
COUNTY OF _____) ss.:

On the _____ day of _____ in the year 2014 before me, the undersigned Notary Public, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed in the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the _____.
(Insert city or other political subdivision and the state or country or other place the acknowledgment was taken).

Notary Public

Schedule A

All that certain plot, piece or parcel of land, situate, lying and being in the Town of Southampton, County of Suffolk and State of New York known and designated as part of Lot 28, 29 and 30 as shown on a certain map entitled "Map of Toppings Purchase, Last Division" and filed in the Office of the Clerk of the County of Suffolk on March 24, 1924 as map number 1014 said part of lots when taken together are more particularly bounded and described as follows:

BEGINNING at a point on the northeasterly side of Old Country Road at the southwest corner of the premises about to be described herein, said point being also distant 1343.25 feet southeasterly as measured along the northeasterly side of Old Country Road from the corner formed by the intersection of the easterly side of Speonk-Riverhead Road with the northeasterly side of Old Country Road;

RUNNING THENCE from said point or place of beginning North 09 degrees 47 minutes 20 seconds East 9455.50 feet to the southeasterly side of Sunrise Highway;

RUNNING THENCE along the southeasterly side of Sunrise Highway the following 2 courses, bearings and distances:

1. Northeasterly along the arc of a curve bearing to the right having a radius of 970.00 a distance of 334.27 feet;
2. North 82 degrees 00 minutes 12 seconds East 236.74 feet to land now or formerly of Bide-A-Wee Home Association, Inc.;

RUNNING THENCE along said lands South 09 degrees 47 minutes 20 seconds West 9789.85 feet to the northeasterly side of Old Country Road; and

RUNNING THENCE along the northeasterly side of Old Country Road 68 degrees 31 minutes 00 seconds West 531.06 feet to the point or place of BEGINNING.

SCTM 900-276-3-1 and 2



**Combined Real Estate
Transfer Tax Return,
Credit Line Mortgage Certificate, and
Certification of Exemption from the
Payment of Estimated Personal Income Tax**

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

Schedule A — Information relating to conveyance

Grantor/Transferor	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor)			Social security number
	Westhampton Property Associates, Inc.			
	Mailing address			Social security number
	429 Carls Path			
	City	State	ZIP code	Federal EIN
Deer Park	NY	11729	20-5029516	
Single member's name if grantor is a single member LLC (see instructions)				Single member EIN or SSN
Grantee/Transferee	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee)			Social security number
	Central Pine Barrens Joint Planning and Policy Commission			
	Mailing address			Social security number
	624 Old Riverhead Road			
	City	State	ZIP code	Federal EIN
Westhampton Beach	NY	11978	11-3286762	
Single member's name if grantee is a single member LLC (see instructions)				Single member EIN or SSN

Location and description of property conveyed

Tax map designation — Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
900-276-3-1 and 2	473689	S/s Sunrise Highway	Southampton	Suffolk

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house	5 <input type="checkbox"/> Commercial/Industrial	Date of conveyance	Percentage of real property conveyed which is residential real property _____ % (see instructions)
2 <input type="checkbox"/> Residential cooperative	6 <input type="checkbox"/> Apartment building	month	day
3 <input type="checkbox"/> Residential condominium	7 <input type="checkbox"/> Office building	year	
4 <input type="checkbox"/> Vacant land	8 <input checked="" type="checkbox"/> Other <u>Consent</u>		

Condition of conveyance (check all that apply)

a. <input type="checkbox"/> Conveyance of fee interest	f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)	i. <input type="checkbox"/> Option assignment or surrender
b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____ %)	g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)	m. <input type="checkbox"/> Leasehold assignment or surrender
c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____ %)	h. <input type="checkbox"/> Conveyance of cooperative apartment(s)	n. <input type="checkbox"/> Leasehold grant
d. <input type="checkbox"/> Conveyance to cooperative housing corporation	i. <input type="checkbox"/> Syndication	o. <input checked="" type="checkbox"/> Conveyance of an easement
e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E)	j. <input type="checkbox"/> Conveyance of air rights or development rights	p. <input type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)
	k. <input type="checkbox"/> Contract assignment	q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state
		r. <input type="checkbox"/> Conveyance pursuant to divorce or separation
		s. <input checked="" type="checkbox"/> Other (describe) <u>Consent</u>

For recording officer's use	Amount received Schedule B., Part I: \$ Schedule B., Part II: \$	Date received	Transaction number
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Schedule B — Real estate transfer tax return (Tax Law, Article 31)**Part I — Computation of tax due**

1 Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) **Exemption claimed**

2 Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)

3 Taxable consideration (subtract line 2 from line 1)

4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3

5 Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)

6 Total tax due* (subtract line 5 from line 4)

1.		
2.		
3.		
4.		
5.		
6.		

Part II — Computation of additional tax due on the conveyance of residential real property for \$1 million or more

1 Enter amount of consideration for conveyance (from Part I, line 1)

2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A)

3 Total additional transfer tax due* (multiply line 2 by 1% (.01))

1.		
2.		
3.		

Part III — Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) a

b. Conveyance is to secure a debt or other obligation..... b

c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c

d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts d

e. Conveyance is given in connection with a tax sale e

f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F f

g. Conveyance consists of deed of partition g

h. Conveyance is given pursuant to the federal Bankruptcy Act h

i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property i

j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment j

k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) k

*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C — Credit Line Mortgage Certificate (Tax Law, Article 11)**Complete the following only if the interest being transferred is a fee simple interest.**

I (we) certify that: (check the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is not principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

- Other (attach detailed explanation).
3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the NYC Department of Finance.)

Signature (both the grantor(s) and grantees must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

Westhampton Property Associates, Inc.

By:

Grantor signature

Title



Grantee signature

Chayirman

Title

Grantor signature

Title

Grantee signature

Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the NYC Department of Finance? If no recording is required, send your check(s), made payable to the Department of Taxation and Finance, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under **Exemptions for nonresident transferor(s)/seller(s)** and sign at bottom.**Part I - New York State residents**

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, each resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

Part II - Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. Each nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ to _____ (see instructions).
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Combined Real Estate Transfer Tax Return
Credit Line Mortgage Certificate, and
Certification of Exemption from the
Payment of Estimated Personal Income Tax

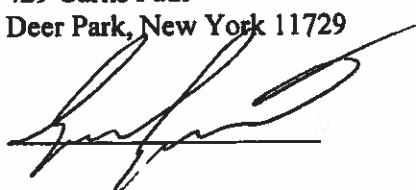
Consent and Non-Disturbance Agreement
Additional Grantors

Consent Agreement between Westhampton Property Associates, Inc., Giovanni Giaquinto a/k/a John Giaquinto, Giaquinto Masonry, Inc., Giaquinto Brothers, LLC, Tristate Capital Bank, and Central Pine Barrens Joint Planning and Policy Commission

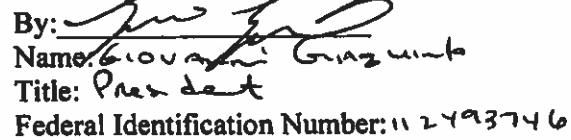
SCTM #900-276-3-1 and 2

Grantors

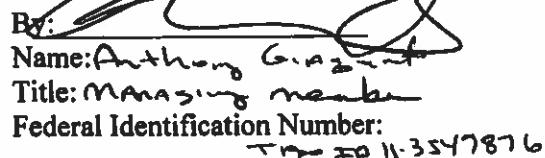
Giovanni Giaquinto a/k/a John Giaquinto
429 Carlls Path
Deer Park, New York 11729



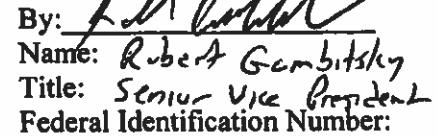
Giaquinto Masonry, Inc.
429 Carlls Path
Deer Park, New York 11729

By: 
Name: Giovanni Giaquinto
Title: President
Federal Identification Number: 11-2493746

Giaquinto Brothers, LLC
429 Carlls Path
Deer Park, New York 11729

By: 
Name: Anthony Giaquinto
Title: Managing member
Federal Identification Number:
TIN 11-3547876

Tristate Capital Bank
One Oxford Centre, 301 Grant Street, Suite
2700, Pittsburgh, Pennsylvania, 15219

By: 
Name: Robert Gambitsky
Title: Senior Vice President
Federal Identification Number:

TIN ID 20-5888359
Bank # 3683496

Grantee

Central Pine Barrens Joint Planning and Policy Commission
624 Old Riverhead Road
Westhampton Beach, New York 11978
Federal Identification Number: 11-3286762

CVE Solar at Westhampton Property Associates
Central Pine Barrens Commission Public Hearing September 20, 2023



0 1,000 2,000 4,000 6,000 8,000
Feet

reference map for discussion
purposes only

Company Background - CVE North America ("CVE")

CVE is an Independent Clean Energy Power Producer (IPP) focused on the development and operations of solar energy projects, most often dedicated to community solar markets. We have deep experience in the development, financing, ownership & long-term operation and maintenance of renewable solar energy assets. CVE strives to execute each project with integrity and transparency, while delivering a positive impact for the local community.

Capabilities:

Considerable experience developing, financing, and operating solar projects across the U.S. with a focus on New York State and the Northeast

- 9 self-developed projects totaling 37 megawatts of solar projects in operation under the Massachusetts SMART program since 2020
- Development pipeline of 450+ MW across NY, NM, VA, PA, OH and MI, more than 250 MW are under site control and in the development process
- Since 2022 CVE NA has financed and commenced construction of a 73 MW portfolio consisting of:
 - 41 MW of acquired pre-construction projects
 - 32 MW of self-developed projects

Our Community Solar Approach:

CVE focuses on building renewable power production systems close to where power is consumed. This is the essence of "Distributed Generation", in contrast with the more traditional large power plants requiring substantial transmission to deliver power to consumers. The idea is simple: designing renewable energy solutions that fit the various needs of local governments, conservation bureaus, landowners, local industry, investors, and financial partners.

CVE is committed to providing long-term ecological solutions to meet the energy needs of businesses and communities. Competitiveness, energy efficiency and sustainability are key objectives which underpin the group's activities and drive the ambitions of its members.

What is Community Solar?

Community Distributed Generation (CDG) is the NY State community solar program that allows homeowners, renters, municipalities, and businesses to have access to the benefits of solar energy without having to install solar panels on their buildings. Subscribers benefit from local renewable energy produced in their region and save money every month on their electricity bill.

New York is one of 22 states that currently allow and incentivize community solar, and more states are currently considering bills to broaden community solar in the country. CVE is actively developing Community Solar projects throughout the country under its brand Halo. New York's Climate Leadership and Community Protection Act (CLCPA) has a stated goal for 70% of the state's electricity generation to be sourced from renewable energy sources by 2030, including 6 gigawatts of solar by 2025 on a path to 10 gigawatts by 2030. Community Distributed Generation (CDG) has and will continue to play a key role in achieving the states' target. Importantly CDG has been advanced to democratize the beneficiaries of clean energy development in a fair and equitable way.

CVE Recognized for Environmental and Quality Practices

1. Certified B-Corp (please add language)
2. ISO 9001 and ISO 14001 certified (with annual renewal).
 - ISO 9001 is a family of quality management systems, a set of guidelines that aid businesses in ensuring that they satisfy the needs of customers and other stakeholders while adhering to all applicable legal and regulatory requirements for a given service or product
 - ISO 14001 is a series of environmental management standards that exists to assist firms in reducing the impact of their operations on the environment

Ground Mount Solar Solutions

- Ground mounted solar farms consist of a series of solar panels installed above the ground across large areas.
- Instead of directly providing power to a local consumer like a residential rooftop, solar farms provide power to the electric grid and are part of the utility's energy mix.
- There are different types of ground mounted PV projects, like community solar and utility-scale solar farms. All of CVE's ground-mount installations in the United States are community solar farms, benefiting nearby residents and businesses.

CVE Partnerships with Townships and Landowners

- CVE works hand in hand with Towns, Municipalities, Conservation Districts and Landowners to develop ground mounted PV installations that respect the environment and the concerns of communities.
- Our experienced Solar Site Originators first identify land parcels suitable for solar. Then they work directly with landowners to either lease or purchase the land, in an effort to forge a lasting relationship that is beneficial for all parties.
- Landowners benefit from a reliable source of revenue from a long-term lease or land purchase without having to bear any cost, as all expenses related to the construction, operation and maintenance of each installation are borne by CVE.

Pollinator Friendly Solar –

- CVE is committed to creating a pollinator-friendly habitat at each site, making every effort to incorporate the industry best-practices

- A 'Pollinator Friendly' solar facility incorporates land use and management practices beneficial to pollinators by: planting native wildflowers, limiting the use of pesticides and installing cavity nesting for bee habitats.

CVE Green Initiative – Supporting Local Environmental Issues

- CVE donates \$1 for every panel installed to a local nonprofit organization working towards:
 - Tree planting
 - Land and Water conservation
 - Protection of local wildlife and biodiversity
 - Education in sustainability and clean energy

Key CVE NA Financing Partners:

FOSS & COMPANY
TAX CREDIT SPECIALISTS

 **LiveOakBank**

The Seminole Companies


AVANA CAPITAL
PRESERVING WEALTH. CREATING GROWTH.


REA
RENEWABLE ENERGY ALTERNATIVES

CVE Community Solar Project - Project Description

CVE North America, Inc. (Applicant), proposes to construct and operate the CVE US NY Southampton 243 LLC (Project); a ground mounted, tracking photovoltaic (PV) community solar facility, with 5.00 MWac capacity. The Project is proposed to be located on two privately-owned parcels located off Speonk-Riverhead Road, Westhampton, NY in Suffolk County.

Suffolk County Tax Map Parcel No.:

- 900-276.00-03.00-001.000
- 900-276.00-03.00-002.000

Purpose and Need

CVE proposes a positive re-use of a disturbed and scarred, long-standing sand mining operation located on the border of the Central Pine Barrens area, largely located within the Compatible Growth Area and partially in the Core Preservation Area.

The site is comprised of two adjacent land parcels: 0900-276.00-03.00-001.000 & 002.00. The solar project would reside about 1400' to the east of Speonk-Riverhead Road, 1500' south of Sunrise Hwy. and 2200' north of Old Country Road in Westhampton. Both parcels are owned by Westhampton Property Associates, Inc.

We are respectfully requesting permission from the Central Pine Barrens Commission (CPBC) to construct and operate a PV solar facility that would generate clean renewable energy and benefit residents and small businesses within the area of the project. The project is proposed under the Community Distributed Generation (CDG) NYSERDA Program, which provides direct financial relief to PSEG-LI customers who subscribe to the project through an established PSEG-LI billing program. While the Program targets at least 30% of customer offtake be subscribed by low-moderate (LMI) income households, CVE will base our efforts on ensuring that at least 60% of subscribers are Low-Moderate Income households. Small businesses seeking relief through local and state programs can also be serviced through this program. A monthly bill savings is applied directly to their PSEG-LI account, commensurate with their participation in the program. As an additional societal benefit to show Hardship, this clean energy project, built to scale, positively impact the Town, County and the State's ability to reach their stated renewable energy goals to reduce reliance on fossil fuel sources to power our electricity grid.

Based on CVE's commitment to providing renewable energy, we propose to develop the site described below to maximize its solar energy potential. In order to best determine optimal location within the site, the following factors have been analyzed:

- Site accessibility
- Significant solar radiation (insolation)
- Very limited tree and vegetative impact

- Limited visibility from offsite locations
- Lowest impact development in the Compatible Growth and Core Protection Areas
- Ideal land use for disturbed mining sites, with negligible impact on ground water recapture

Given the high property values and scarcity of large parcels of land in the area of Westhampton, New York, CVE understands that residents of this area are displaced from this state program benefit – another community hardship. There is a great imbalance between the amount of community members seeking to participate in these cost savings programs and solar projects that deliver community energy savings in Suffolk County.

In order to build projects that provide utility savings to the surrounding community, projects need to be built at a scale and on land that doesn't support the high valuations present throughout the east end of Suffolk County, NY. This site is ideal in its ability to deliver a significant scale renewable energy project, its proximity to utility grid infrastructure and the ability to positively reuse an already disturbed mining site.

This sand mining site has a sunken, flat bottom valley design which is ideal for solar development for a few reasons. The land has no other intrinsic value for commercial or residential use, it's already cleared of vegetation, and it would be completely out of the view of any neighbors or area residents. The property is already located far back from area roads and any residential neighborhoods.

Ground mounted solar projects have little to no impact on local town resources like sewage, water, lighting, roads, road maintenance or transportation needs of any kind. CVE will present in greater detail the beneficial impact that a solar project provides to groundwater recapture and replenishment. There would be a negligible addition to impervious surfaces as the existing dirt access roads to the property would not need to be significantly altered.

Environmental Conservation Law 57-0121 was intended to reduce the negative impact to groundwater recapture from residential and commercial buildings and parking lots. Ground mounted solar energy projects are a completely different type of development, which has nearly no negative impact on groundwater recapture.

Community Distributed Generation (CDG) projects differ in notable ways from "utility" scale projects. A primary difference is that residents within the Southampton, Riverhead and Brookhaven townships can receive a direct benefit by subscribing to the CDG program for this project and to reduce their electricity bills. Participation makes them eligible to receive a credit on their electricity bills from PSE&G LI, and they can cancel anytime. There are no costs to subscribe, and on average, customers can expect to save 5-10% on their monthly utility bills.

CDG projects are also less impactful to conserved land. Due to their smaller overall land requirements, a community solar energy facility requires less land disturbance, has fewer stormwater impacts, and can be more effectively screened from public view. Moreover,

throughout the life of the project, the land beneath the panels can be planted with native species of grasses, flowers, and other landscaping materials. At the end of the project's life, the solar energy panels and related equipment can be easily removed.

Equipment Description

CVE is seeking a hardship declaration from the CPBC for this proposed community solar project based on the community and societal benefits described in the 'Purpose and Need' section above, as well as the positive repurposing of this preexisting disturbed mining site. If approved by CPBC the solar facility would be developed over the next 3 years. CVE and the Pine Barrens Commission will potentially have the opportunity to consider expanding the project when remaining mining activities may cease (7-10 years).

We hope to demonstrate the societal and community benefit of the project as well as the positive reuse to be in alignment with what ECL 57-0121 was intended to preserve. Description of all equipment can be found below.

Solar Project to Include:

- 11,154 solar modules (panels)
- Total AC System Size 5 MW
- (2) 2500 KVA Transformers
- (2) DC to AC Inverters, 2,500 KW each
- (4) 2752 KW Sungrow or alternate Battery Energy Storage containers
- Utility Switchgear Located at Speonk-Riverhead Rd.:
 - Pad mounted transformers, reclosers, meters, communication reclosers,

Equipment Dimensions:

- Total Paracel Area =114.305 acres
- Solar Array Footprint Area: 25 acres (includes inter row spacing)
- Area of Land Disturbed by Solar Facility: 0 Acres
- Inverter Area: 112 Square Feet
- Battery Energy Storage System: 1045 Square Feet
- Transformer = 100 Square Feet

Safety, Fire and Electrical Code

- Entire system design will be compliant with the most recent version of the New York State Fire Code
- All electrical plans will be third party stamped by a NY licensed EE using the most recent version of the National Electrical Code (currently v.2020)
- System will be located far from residential homes and neighborhoods, compliant with the Towns' code and preference
- Since the inception of CVE, we have placed quality at the core of our operations

Solar Modules

The proposed Project will utilize approximately 11,154 solar modules. The modules are manufactured offsite and will be delivered to the site by truck in wooden crates or cardboard boxes. Each module will measure approximately 7 feet by 4 feet and will be rated at 480 watts.

Solar modules will be configured into metal frames and oriented in rows running north to south. The frames of solar modules will be mounted on steel racking posts that rotate to track the sun throughout the day – facing east in the morning and west in the evening.

Approximately 15 feet of space will be maintained between each row of solar modules for operations and maintenance access.

The maximum height of the modules will be approximately 10 feet high (in the mornings and evenings when the racking posts are fully tilted).

Balance of System Equipment

Balance of System Equipment including but not limited to inverters, DC combiner boxes, transformers, and/or medium voltage switchgear may be installed near the solar array within the project's fence line. The Balance of System Equipment will be installed on H-Frames and concrete pads and in compliance with equipment manufacturer instructions. Full details of Balance of System Equipment will be included as part of the Project's electrical design plan-set submitted for ministerial permits.

Access Roads

The site will be accessed from Speonk-Riverhead Road an existing private access road which will extend into the Project parcel(s) and into the Project's proposed fence line. The access road will extend to the Project's equipment pads, as well as the furthest sections of modules, with hammerhead turnarounds to accommodate maintenance vehicles. The road will be wide enough to accommodate emergency vehicles and designed in compliance with County standards.

Fencing

The solar array and all balance of system equipment will be enclosed in an eight-foot-tall wildlife-friendly, agricultural fencing. The fence will have at least one vehicle access gate at the boundary of the array, which will always remain locked, except during operations and maintenance activities.

Transportation and Traffic

Materials for the proposed Project (e.g., solar modules, supporting racks, foundation materials, electrical gear) will be brought to the site by truck over the course of construction. It is not expected that the additional vehicles associated with construction will have an impact of overall traffic in Suffolk County. Once construction is complete, vehicles will be on site sparingly for operations and maintenance activities.

Stormwater

CVE will be impacting over 1 acre(s), therefore we will be required to draft a Stormwater Pollution Prevention Plan (SWPPP). This will be drafted in accordance with NYS DEC guidelines and will be reviewed and approved during site Plan engineering with the Town of Southampton. Per the SWPPP Stormwater BMPs will be implemented on site such as stormwater basins, vegetative filter strips and level spreaders will be used convert concentrated to sheet flow, where applicable.

Employment and Construction

A typical construction workforce for a solar facility of this size consists of approximately 80 workers during the construction period, which should last approximately 6 months. Construction personnel will be divided between civil and electrical services and based on the phasing of construction it is not anticipated that all workers will be present on site at the same time. Workers will be transported to the site via construction trucks and will park in an established staging area.

Water Use

No water will be required for construction activities, and no water infrastructure is proposed in association with the project.

Sewer and Solid Waste

Sewer services will not be needed. Temporary sanitary facilities will be placed onsite during construction.

Decommissioning

Applicant will record a bond with Suffolk County equal to the cost to decommission the Project and restore the site to pre-existing conditions (estimated to be \$200,000 - \$300,000). The decommissioning cost estimate will be prepared by a third-party engineering firm. A decommissioning plan outlining all decommissioning efforts and timelines has been provided to Suffolk County, and the Authority having jurisdiction--the Town of Southampton.

In general, decommissioning efforts include:

- Remove all panels
- Remove posts, racking, and fence
- Remove concrete equipment pads
- Disassemble wiring, conduits, inverters
- Excavate access road
- Restore site conditions
 - Soils de-compacted
 - Fill excavations with soils
 - Reseed disturbed areas

Conclusion

In conclusion, the Applicant requests the approval to proceed with the proposed project that will deliver many benefits with the positive reuse of a disturbed mining site. this renewable energy development will help the Town, State and Federal governments meet their clean energy goals. Equally important, the economic benefits this renewable energy project can deliver to area residents and businesses stranded from community solar projects align with the intent and requirements of the CPBC's definition of Hardship. We would be pleased to meet the CPBC at the next meeting on August 16th to be considered for development in the Compatible Growth and Core Preservation areas of the Pine Barrens.

- Uniquely sited on a property currently used for sand mining/quarry, with feasible utility interconnection, and zoned appropriately (Zoned Quasi-Public Service Use District – QPSUD solar is allowable by way of a Conditional Use Permit).
- Driving significant tax revenues to the County
- Significantly reducing local residents' energy costs for 30+ years
- Minimal addition of impervious surface, maintains the sites ability to recapture rainwater and recharge the aquifer
- Not impact on traffic counts in the neighborhood
- Not demanding County services such as water, sewer, roads or school

A community solar facility is a low-intensity, harmonious use of the property.

Thank you for your time and attention to this matter. We look forward to working with the Central Pine Barrens Commission, Suffolk County and the Community as the application progresses.

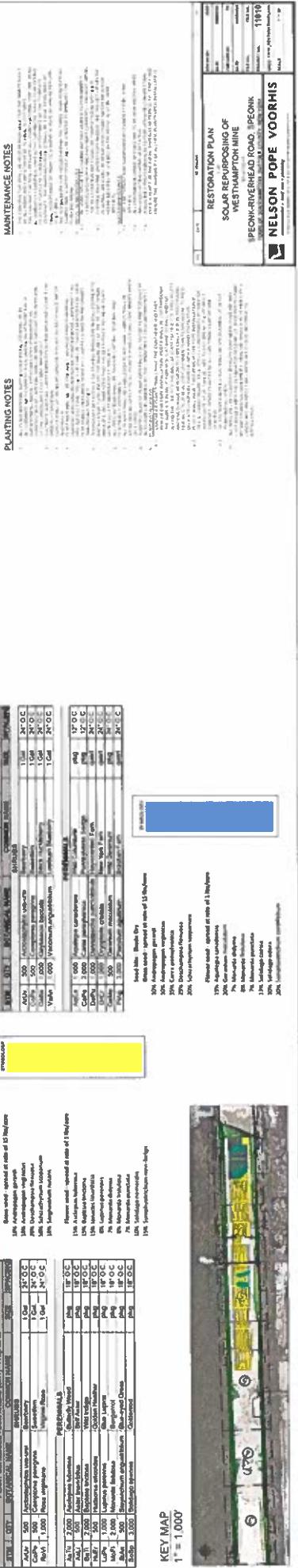
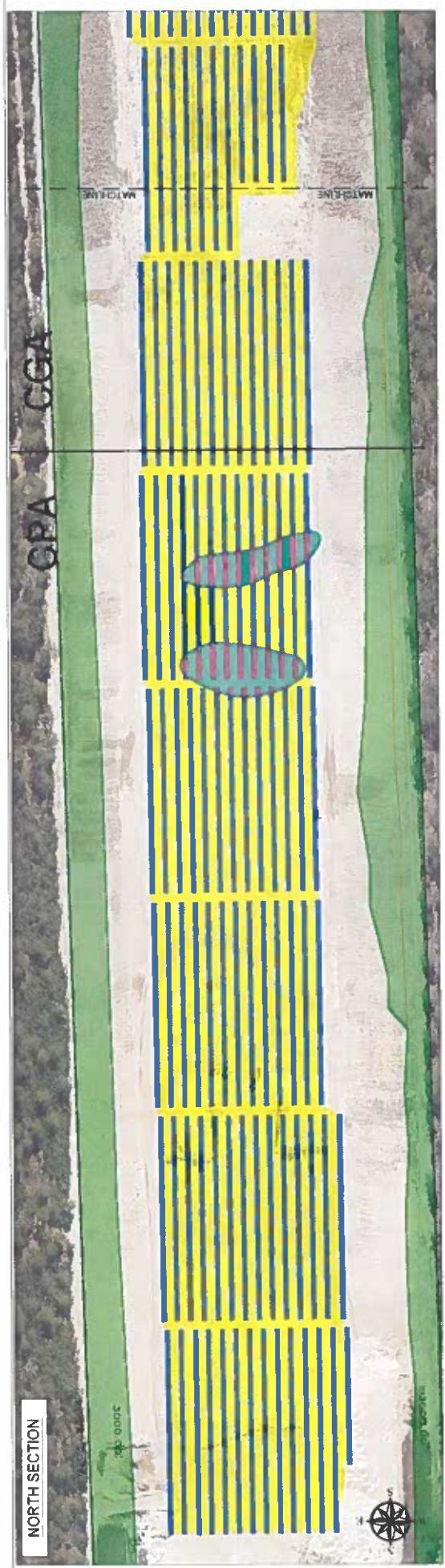
Sincerely,

Steven Engelmann

Steven Engelmann, Senior Business Developer

Steven Engelmann@cvegroup.com

631-445-4145



McKinney's Consolidated Laws of New York Annotated
Environmental Conservation Law (Refs & Annos)
Chapter 43-B. Of the Consolidated Laws (Refs & Annos)
Article 49. Protection of Natural and Man-Made Beauty
Title 3. Conservation Easements (Refs & Annos)

McKinney's ECL § 49-0307

§ 49-0307. Procedures for modifying or extinguishing conservation easement

Effective: August 4, 2011
Currentness

1. A conservation easement held by a not-for-profit conservation organization may only be modified or extinguished:

- (a) as provided in the instrument creating the easement; or
- (b) in a proceeding pursuant to **section nineteen hundred fifty-one of the real property actions and proceedings law**; or
- (c) upon the exercise of the power of eminent domain.

2. A conservation easement held by a public body outside the Adirondack park or Catskill park, as defined in **section 9-0101** of this chapter, may only be modified or extinguished:

- (a) as provided in the instrument creating the easement; or
- (b) in a proceeding pursuant to **section nineteen hundred fifty-one of the real property actions and proceedings law**; or
- (c) upon the exercise of the power of eminent domain; or
- (d) where land subject to a conservation easement or an interest in such land is required for a major utility transmission facility which has received a certificate of environmental compatibility and public need pursuant to article seven of the public service law or is required for a major steam electric generating facility which has received a certificate of environmental compatibility and public need pursuant to article eight of the public service law, upon the filing of such certificate in a manner prescribed for recording a conveyance of real property pursuant to **section two hundred ninety-one of the real property law** or any other applicable provision of law.

3. A conservation easement held by a public body inside the Adirondack park or the Catskill park, as defined in **section 9-0101** of this chapter, may be modified or extinguished:

- (a) as provided in the instrument creating the easement; or
- (b) upon the exercise of the power of eminent domain; or
- (c) unless such easement is held by the state, in a proceeding pursuant to section [nineteen hundred fifty-one of the real property actions and proceedings law](#); or
- (d) where such easement is held by the state, upon a determination by the commissioner, after a non-adjudicatory public hearing, at which the public shall be given opportunity to be heard, that the easement can no longer substantially accomplish its original purposes or any of the purposes set forth in [section 49-0301](#) of this title. Notice of any such hearing shall be given to the public pursuant to thirty days published notice in the state register, the environmental notice bulletin and in a newspaper having general circulation in the county where the real property burdened by the easement is situated and individual notice shall be given in writing to any person who may be entitled to enforce such easement pursuant to [subdivision five of section 49-0305](#) of this title at such address as such person shall file with the commissioner; or
- (e) where land subject to a conservation easement or an interest in such land is required for a major utility transmission facility which has received a certificate of environmental compatibility and public need pursuant to article seven of the public service law or is required for a major steam electric generating facility which has received a certificate of environmental compatibility and public need pursuant to the former article eight of the public service law, or a major electric generating facility or repowering project which has received a certificate of environmental compatibility and public need pursuant to article ten of the public service law, upon the filing of such certificate in a manner prescribed for recording a conveyance of real property pursuant to [section two hundred ninety-one of the real property law](#) or any other applicable provision of law, provided that such certificate contains a finding that the public interest in the conservation and protection of the natural resources, open spaces and scenic beauty of the Adirondack or Catskill parks has been considered.

4. Where a conservation easement is modified or extinguished pursuant to paragraph (d) of subdivision two or paragraph (e) of subdivision three of this section, such easement shall be modified or extinguished only to the minimum extent necessary to accommodate the facility which is the subject of the certificate of environmental compatibility and public need.

5. Nothing in this section shall be construed to preclude the extinguishment or modification of a conservation easement pursuant to the applicable provisions of the federal natural gas act ([15 U.S.C. §§ 717-717w](#)).

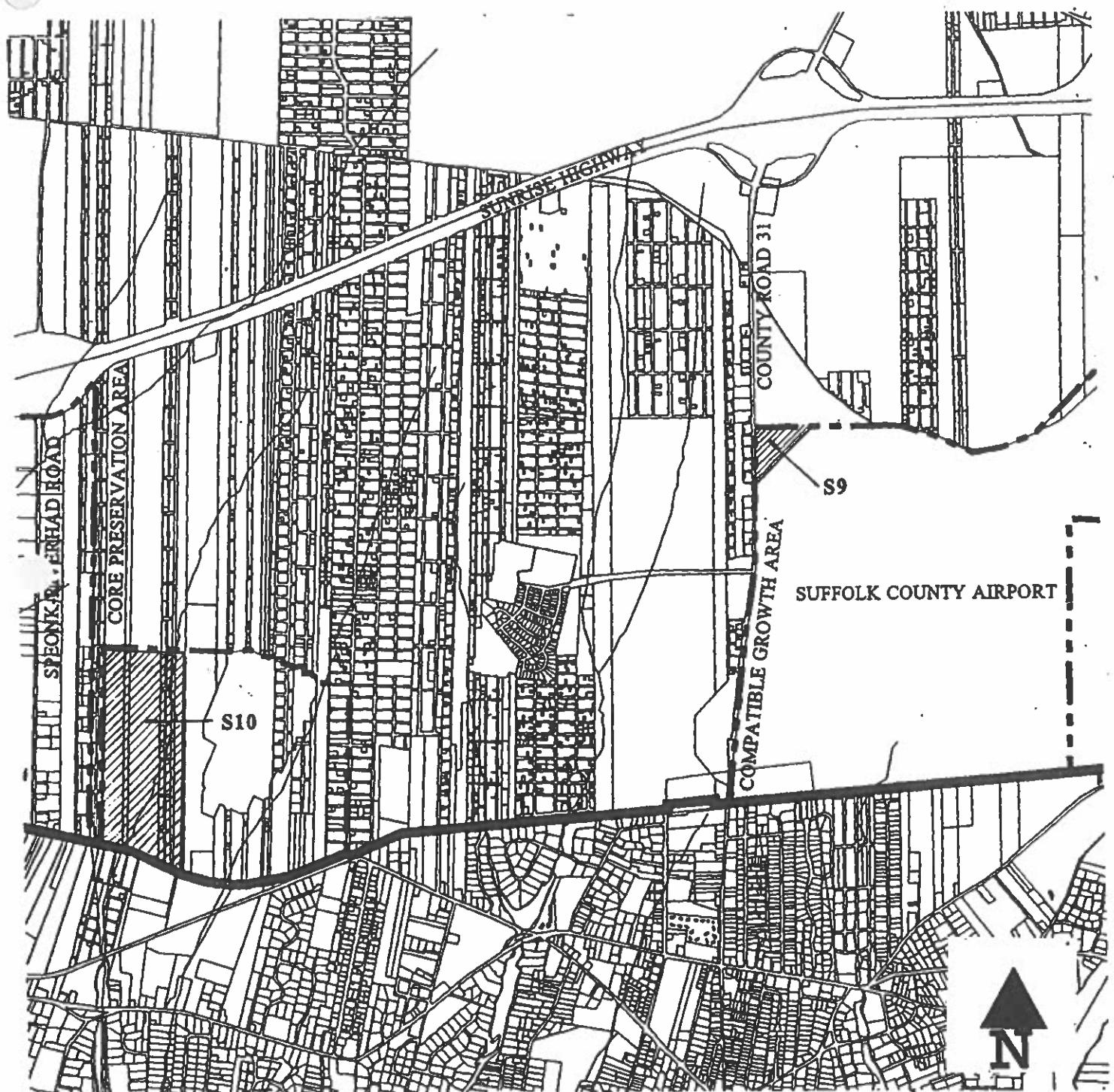
Credits

(Added L.1984, c. 292, § 5. Amended [L.1992, c. 519, § 12](#); [L.2011, c. 388, § 16](#), eff. Aug. 4, 2011.)

McKinney's E. C. L. § 49-0307, NY ENVIR CONSER § 49-0307

Current through L.2023, chapters 1 to 276. Some statute sections may be more current, see credits for details.

Figure 4-6: Critical resource areas in Westhampton vicinity



Red Creek Site 4 North of NYS Rt 24 and South of Old Squires Road. <i>See S6 on Figure 4-5</i>	0900-173-01-01 0900-205-01-01 Approx. 79 acres.	Open space area complementing adjacent parkland.
Munns Pond Vicinity Hampton Bays North side Montauk Highway, adjacent to east side of Munn's Pond parkland, west of Bellows Pond Road. <i>See S7 on Figure 4-5</i>	0900-221-02-10 Approx. 10 acres.	Open space area buffering the adjacent Munn's Pond site.
Henry's Hollow Region East Quogue Lies between Sunrise Highway and LIRR <i>See S8 on Figure 4-5</i>	0900-220-01-40-86 0900-220-01-p/o 87, 88.1, 92 0900-220-01-p/o 98.1, 99.24 0900-220-01-99.1-99.22 0900-220-03-1-82 0900-220-04-1-7 0900-251-01-68 0900-251-01-p/o 90, 91.1, 92 0900-251-01-98 0900-289-02-1-38 (p/o refers to that part located in CGA) Approx. 985 acres.	Buck moth habitat generally north of 100 foot contour.
Dwarf Pines Gabreski Airport Westhampton Contains the northwestern most corner of Gabreski Airport. <i>See S9 on Figure 4-6</i>	0900-312-01-p/o 01 Approx. 34 acres.	Dwarf pine plains.
Upland Forest Westhampton East of Speonk-Riverhead Rd and 5th Ave., north of Montauk Highway. <i>See S10 on Figure 4-6</i>	0900-276-03-p/o 01, 02, 5.1 0900-305-01-6,7 0900-329-01-01, 1.2, 3, 3.1, 4, 5, 6, 7, 8.1 0900-329-01-p/o 9, 10 0900-330-01-02, 4.1 (p/o refers to that part located in CGA and not in a receiving area) Approx. 153 acres.	Open space on northerly portion of site complements adjacent open space.
<i>Notes</i>		
Critical area designations are from the 12/14/94 Commission meeting resolution.		

4.5.4.2 Public notice regarding the designation of Critical Resource Areas. The Commission

DRAFT

**Addendum to the Draft Staff Report for the Central Pine Barrens Commission
Public Hearing held on September 20, 2023**

**CVE North America at Westhampton Property Solar Facility
Core Preservation Area Hardship Application**

Commission Meeting of October 18, 2023

In response to the Applicant's public hearing testimony and the supplemental material received on October 5, the Commission supplements its draft staff report to include precedent matters on conservation easement modification requests.

Since 1993 there has been only one property with a conservation easement that has been the subject of an easement being amended. It is Camp Wauwepex, the Nassau County Boy Scout Camp, in Wading River, in the Core Preservation Area, in the Town of Riverhead.

In 2008, the Boy Scouts granted a conservation easement to the Commission on approximately 400 acres as part of a Pine Barrens Credit application process. The Scouts received approximately 100 Pine Barrens Credits. A copy of the easement is attached. The easement has been modified twice.

The easement's "Covenants" restrict development activities unless expressed in the reserved rights. The easement's "Reserved Rights" allow the Scouts to maintain and replace structures and to build buildings that were identified in the easement as "future" structures.

In the first instance, in 2013, the Boy Scouts made a request to repair, replace and reconstruct the dining hall when a catastrophic fire occurred in the dining hall that required it to be demolished and reconstructed. The reconstruction occurred in the same clearing envelope except for one (1) additional square foot in the structure. The activity involved no clearing or disturbance to existing natural vegetation, no increase in sanitary flow or other permit modifications. It was necessary to reflect the change to the file record in this instance.

In the second instance, in 2020, the Boy Scouts made a request to modify an existing cabin and future cabin. The request was to build a building identified as a future structure in a location different than was specified in the easement. The Scouts reduced the size of a "future" cabin for an addition to an existing cabin. It was necessary to reflect the change to the file record in this instance as well.

The amendments to the Boy Scouts easement represent the exceptionally limited number of instances and magnitude involving amendments to easements in the Commission's 30 year history. The amendments resulted in no development activity, no significant adverse environmental impacts on the property and were consistent with the terms of the easement. The requests maintained the spirit and intent of the easement while accommodating the continued use of a property in a manner consistent with the conservation easement.



SUFFOLK COUNTY CLERK
RECORDS OFFICE
RECORDING PAGE

Type of Instrument: EASEMENT

Recorded: 08/27/2015

Number of Pages: 20

At: 11:35:06 AM

Receipt Number : 15-0116112

TRANSFER TAX NUMBER: 15-02649

LIBER: D00012829

PAGE: 800

District:

0600

Section:

075.00

Block:

03.00

Lot:

010.003

EXAMINED AND CHARGED AS FOLLOWS

Deed Amount:

\$0.00

Received the Following Fees For Above Instrument

		Exempt		Exempt
Page/Filing	\$100.00	NO	Handling	\$20.00
COE	\$5.00	NO	NYS SRCHG	\$15.00
TP-584	\$5.00	NO	Notation	\$0.50
Cert. Copies	\$0.00	NO	RPT	\$60.00
Transfer tax	\$0.00	NO	Comm. Pres	\$0.00
			Fees Paid	\$205.50

TRANSFER TAX NUMBER: 15-02649

THIS PAGE IS A PART OF THE INSTRUMENT
THIS IS NOT A BILL

JUDITH A. PASCALE
County Clerk, Suffolk County

1 2

Number of pages 20

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

RECORDED
2015 Aug 27 11:35:06 AM
JUDITH A. PASCALE
CLERK OF
SUFFOLK COUNTY
L D00012829
P 800
DT# 15-02649

Deed / Mortgage Instrument	Deed / Mortgage Tax Stamp	Recording / Filing Stamps
3	FEES	
Page / Filing Fee <u>100.00</u>	Mortgage Amt. _____	
Handling <u>20.00</u>	1. Basic Tax _____	
TP-584 <u>5.00</u>	2. Additional Tax _____	
Notation <u>.50</u>	Sub Total _____	
EA-52 17 (County) _____	Spec./Assit. _____	
EA-5217 (State) <u>100.00</u>	or _____	
R.P.T.S.A. <u>5.00</u>	Spec. /Add. _____	
Comm. of Ed. <u>5.00</u>	TOT. MTG. TAX _____	
Affidavit _____	Dual Town _____ Dual County _____	
Certified Copy _____	Held for Appointment _____	
NYS Surcharge <u>15.00</u>	Transfer Tax _____	
Other _____	Mansion Tax _____	
	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. <u>601</u> 2983706 0600 07500 0300 010003	1/3 P 100	5	Community Preservation Fund
Real Property Tax Service Agency Verification	PTS R CWH A 18-AUG-15		Consideration Amount \$ <u>0</u>	CPF Tax Due \$ _____
6	Satisfactions/Discharges/Releases List Property Owners Mailing Address RECORD & RETURN TO: Central Pine Barrens Joint Planning and Policy Commission 624 Old Riverhead Road Westhampton Beach, New York 11978		Improved _____ Vacant Land _____ TD _____ TD _____ TD _____	
	Mail to: Judith A. Pascale, Suffolk County Clerk 310 Center Drive, Riverhead, NY 11901 www.suffolkcountyny.gov/clerk	7	Title Company Information Co. Name <u>Title vest agency</u> Title # <u>DR-S-461278</u>	
8	Suffolk County Recording & Endorsement Page			

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

Nassau County Council Boy Scouts of America Incorporated

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

TO
Central Pine Barrens Joint Planning and Policy Commission

In the TOWN of Riverhead
In the VILLAGE _____
or HAMLET of _____

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

(over)

DR-S-461278
600-75-3-10.003
County - Suffolk
Town - Riverhead

CONSERVATION EASEMENT AMENDMENT

This Agreement, made this 18th day of March 2015, is by and between the Nassau County Council Boy Scouts of America Incorporated with offices at 544 Broadway, Massapequa, New York 11758, (the "Grantor") and the Central Pine Barrens Joint Planning and Policy Commission with offices at 624 Old Riverhead Road, Westhampton Beach, New York 11978, (the "Commission" or "Grantee").

Whereas, Grantor is the owner in fee simple of certain real property in the Town of Riverhead, more particularly described in Schedule A; attached hereto and made a part hereof, (the "Property"), and

Whereas, Grantor conveyed onto the Commission a December 18, 2008 conservation easement on the Property that was recorded on December 23, 2008 in the records of the Suffolk County Clerk at Liber D00012575, page 754, (the "Conservation Easement") attached hereto and made a part hereof as Schedule B, and

Whereas, subsequent to the grant of the Conservation Easement, the dining hall on the Property was destroyed and the Grantor requested Commission permission to construct a new dining hall on the Property, and

Whereas, on March 20, 2013 the Commission adopted a resolution authorizing the Grantor to construct a new dining hall on the Property, (the "Dining Hall"), and

Whereas, the Commission's resolution required, among other things, that the Grantor, after constructing the Dining Hall, amend the Conservation Easement to accurately reflect the Dining Hall's size and location, and to make the use of the Dining Hall subject to the terms and conditions contained within the Conservation Easement, and

Whereas, Grantor has constructed the dining hall, and

Whereas, Reddan Surveying, Inc. has prepared a November 11, 2014 survey of a portion of the Property depicting the size and location of the Dining Hall, which survey is attached hereto and made a part hereof as Schedule C, (the "Reddan Survey") and

Whereas, the Commission, in accordance with its resolution, consents to the amendment of the Conservation Easement.

Now, therefore, in consideration of the premises and the mutual covenants contained herein, the Grantor and Grantee agree as follows:

1. The above recitals are incorporated herein and made a part hereof.
2. Paragraph 4 under the Reserved Rights section of the Conservation Easement is deleted

and replaced with the following:

4. *The right to maintain, modify or replace the facilities or structures existing on or in the Property as of the date first written above and shown on the survey entitled Survey for Schiff Scout Reservation Camp Wauwepex, Certified Survey with Photo Overlay, prepared by Young and Young, and last dated October 21, 2008 and as also described in Schedule B attached hereto and made a part hereof including the Dining Hall as shown on the Reddan Survey and associated with or necessary for the scouting activities provided such maintenance, modification or replacement does not increase the size of the facility or structure or relocate the footprint of the facility or structure or materially alter the Property's vegetation. Grantor may not modify or replace an existing facility or structure, including the Dining Hall, in a manner that increases the structure or facility's design sewage flow rate as defined by the Suffolk County Department of Health Services, (hereinafter "Design Sewage Flow") as the same may be modified from time to time. Notwithstanding, anything to the contrary, Grantor shall not modify or replace any existing facility or structure, including the Dining Hall, without giving Grantee thirty (30) days advanced written notice.*
3. The Conservation Easement, as amended by this Agreement, remains in full force and effect.
4. Grantor's use of the Property and all of the structures and facilities thereon, including the Dining Hall, shall be subject to the terms and conditions of the Conservation Easement as amended by this Agreement.

In Witness Whereof, Grantor has executed and delivered and Grantee has accepted and received this Conservation Easement Amendment.

Nassau County Council Boy Scouts of America Incorporated

By: Salvatore P. Ciampo
Salvatore P. Ciampo, President

Central Pine Barrens Joint Planning and Policy Commission

By: Peter A. Scully, Chairman

STATE OF NEW YORK)
COUNTY OF Suffolk) ss.:

On the 23rd day of March in the year 2015 before me, the undersigned, a notary public in and for said state, personally appeared Salvatore P. Ciampo, 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.

Gloria J. Clemente
Notary Public

GLORIA J. CLEMENTE
Notary Public, State of New York
No. 01CL6231005
Qualified in Nassau County
Commission Expires 11/15/2014

18

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.:

On the 18th day of March in the year 2015 before me, the undersigned, a notary public in and for said state, personally appeared Peter A. Scully, 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.

John C. Milazzo
Notary Public - State of New York
#02MI6129938
Qualified in Suffolk County
Commission Expires July 05, 2017

ADVANTAGE TITLE AGENCY, INC.

Title No. 06-AS-35736 (611S21141)

SCHEDULE A

Amended June 21, 2007

ALL that certain plot, piece or parcel of land, situate, lying and being at Wading River, Town of Riverhead, Suffolk County, New York, bounded and described as follows:

BEGINNING at a point on the Southerly side of Port Jefferson-Riverhead Road (a/k/a N.Y.S. Route 25A or Sound Avenue), distant the following three (3) courses and distances from the corner formed by the Easterly side of Manorville-Wading River Road with the Southerly side of Port Jefferson-Riverhead Road:

1. North 81 degrees 49 minutes 10 seconds East 801.45 feet;
2. North 83 degrees 04 minutes 40 seconds East 571.46 feet;
3. North 83 degrees 14 minutes 50 seconds East 701.93 feet;

RUNNING THENCE the following four (4) courses and distances:

1. North 82 degrees 54 minutes 41 seconds East 1692.09 feet;
2. South 07 degrees 07 minutes 57 seconds East 6.92 feet;
3. North 83 degrees 50 minutes 44 seconds East 705.37 feet;
4. North 82 degrees 57 minutes 22 seconds East 200.35 feet;

THENCE South 07 degrees 08 minutes 06 seconds East 4298.28 feet;

THENCE South 81 degrees 05 minutes 32 seconds West 900.54 feet;

THENCE South 30 degrees 18 minutes 32 seconds West 788.46 feet;

THENCE North 07 degrees 07 minutes 38 seconds West 182.35 feet;

FOR
CONVEYANCING
ONLY

The policy to be issued under this report will insure the title to such buildings and improvements erected on the premises which by law constitute real property.

TOGETHER with all the right, title and interest of the party of the first part, of, in and to the land lying in the street in front of and adjoining said premises.

ADVANTAGE TITLE AGENCY, INC.

Title No. 06-AS-35736 (611S21141)

S C H E D U L E A (continued)

THENCE South 63 degrees 04 minutes 42 seconds West 663.87 feet;

THENCE South 07 degrees 14 minutes 58 seconds East 20.48 feet;

THENCE South 73 degrees 02 minutes 32 seconds West 190.38 feet;

THENCE South 66 degrees 56 minutes 52 seconds West 601.14 feet;

THENCE South 78 degrees 03 minutes 52 seconds West 517.42 feet;

THENCE South 72 degrees 30 minutes 42 seconds West 624.99 feet;

THENCE North 12 degrees 02 minutes 00 seconds West 747.24 feet to a point on the Easterly line of Manorville-Wading River Road;

THENCE North 02 degrees 33 minutes 11 seconds West 911.74 feet;

THENCE North 07 degrees 01 minute 47 seconds West 801.00 feet;

THENCE South 82 degrees 58 minutes 13 seconds West 222.01 feet to a point on the Easterly side of Manorville-Wading River Road;

THENCE along the Easterly side of said road, North 23 degrees 35 minutes 17 seconds West 225.06 feet;

THENCE North 82 degrees 58 minutes 13 seconds East 294.70 feet;

THENCE North 07 degrees 01 minute 47 seconds West 1388.43 feet;

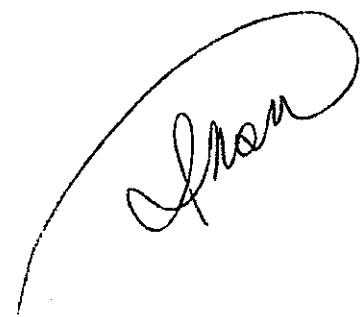
THENCE North 83 degrees 24 minutes 40 seconds East 585.19 feet;

THENCE North 07 degrees 10 minutes 30 seconds West 211.70 feet;

**FOR
CONVEYANCING
ONLY**

The policy to be issued under this report will insure the title to such buildings and improvements erected on the premises which by law constitute real property.

TOGETHER with all the right, title and interest of the party of the first part, of, in and to the land lying in the street in front of and adjoining said premises.



ADVANTAGE TITLE AGENCY, INC.

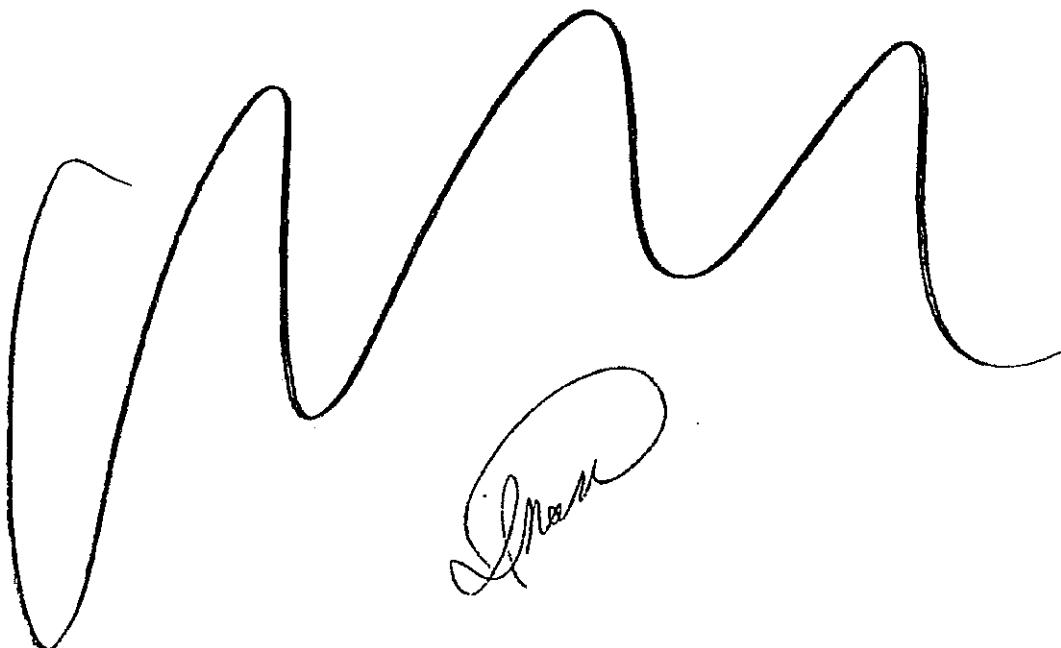
Title No. 06-AS-35736 (611S21141)

S C H E D U L E A (continued)

THENCE North 83 degrees 14 minutes 17 seconds East 699.14 feet;

THENCE North 05 degrees 54 minutes 24 seconds West 684.01 feet;

THENCE North 08 degrees 29 minutes 22 seconds West 416.11 feet to the point or place of BEGINNING.



**FOR
CONVEYANCING
ONLY**

The policy to be issued under this report will insure the title to such buildings and improvements erected on the premises which by law constitute real property.

TOGETHER with all the right, title and interest of the party of the first part, of, in and to the land lying in the street in front of and adjoining said premises.

Schedule B

Conservation Easement

THIS INDENTURE, made this 18th day of December, 2008,

Witnesseth:

WHEREAS, Nassau County Council Boy Scouts of America Incorporated, with offices at 544 Broadway, Massapequa, New York 11758, hereinafter called the Grantor is the owner in fee simple of certain real property, hereinafter called the "Property," which has ecological, scientific, groundwater recharge, scenic, educational, recreational and aesthetic value (the "Natural Values") in its present state as a natural area which property is partly located in the Town of Riverhead in the County of Suffolk, State of New York, which property is more particularly described as follows:

See Schedule A annexed hereto

SCTM: WHEREAS, the Central Pine Barrens Joint Planning and Policy Commission (the "Commission"), with offices at P.O. Box 587, 3525 Sunrise Highway, 2nd Floor, Great River, New York 11739-0587, was created pursuant to the Long Island Pine Barrens Protection Act of 1993 (the "Act") codified in New York Environmental Conservation Law Article 57 ("Article 10.003 57"), is hereinafter described as the "Grantee;" and

WHEREAS, the Central Pine Barrens is a 100,000 acre area within the central and eastern portions of New York's Suffolk County which includes parts of the towns of Brookhaven, Riverhead and Southampton, and which is divided into two areas, the Core Preservation Area (the "Core") and the Compatible Growth Area (the "CGA"), as delineated in Article 57; and

WHEREAS, the Commission adopted the Central Pine Barrens Comprehensive Land Use Plan (the "Plan") which is designed to protect, preserve and enhance the functional integrity of the Pine Barrens ecosystem and its significant natural resources, including plant and animal populations and communities, to protect the quality of surface water and groundwater, discourage piecemeal and scattered development, promote recreational and environmental educational uses that are consistent with the Plan, to accommodate development in a manner consistent with the long term integrity of the Pine Barrens ecosystem, and to ensure that the pattern of development is compact, orderly and efficient; and

WHEREAS, the Plan's goals for the Core include protecting and preserving the ecologic and hydrologic functions of the Central Pine Barrens by preserving the Central Pine Barrens area in its natural state, promoting compatible agricultural, horticultural and open space and certain recreational uses within the framework of maintaining a Pine Barrens environment and minimizing the impact of such activities thereon, prohibiting or redirecting new construction or development, accommodating specific Pine Barrens management practices, and protecting and preserving the quality of surface and groundwaters; and

WHEREAS, this grant of Conservation Easement is made pursuant to Environmental Conservation Law ("ECL"), Title 3, Article 49 or its similar successor statute, and this Conservation Easement is intended to comply with said statute; and

WHEREAS, Grantor currently uses the Property for scouting activities and wishes to continue this use and maintain the existing facilities and structures associated with or necessary for such use, and

WHEREAS, Grantor and Grantee recognize the ecological, scientific, groundwater recharge, scenic, educational, recreational and aesthetic value of the Property and have the common purpose of conserving the Natural Values of the Property by the conveyance to the Grantee of a Conservation Easement on, over and across the Property which shall conserve the Natural Values of the Property and advance the goals of the Commission pursuant to the Act and the Plan;

NOW, THEREFORE, Grantor, for and in consideration of the facts above and hereinafter recited including, but not limited to, entitlement to receipt of the Pine Barrens Credits pursuant to Grantor's Letter of Interpretation issued on December 18, 2008 in the amount of 99.78 Pine Barrens Credits and of the mutual covenants, terms, conditions and restrictions herein contained, does hereby give, grant, bargain, sell and convey unto the Grantee, its successors and assigns forever a Conservation Easement in perpetuity over the Property consisting of the following:

1. The right of visual access to and view of the Property in its natural, scenic and open condition as same existed on the date first written above.
2. The Grantor's forbearance from taking any of those actions constituting development pursuant to ECL Section 57-0107(13), and the Grantor's forbearance from operations or uses pursuant to ECL Section 57-0107(13)(i-xv) unless such operations or uses are otherwise expressly reserved herein.
3.
 - a. The right of the Grantee, 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 Township in which the Property is situated or their respective agents, employees or other representatives, exercising 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) hereinabove shall not be defeated because of any subsequent adverse possession, laches, estoppel or waiver. Grantee or any party with a third party enforcement right or their respective agents, employees or other representatives shall be permitted access, if necessary, to cross other lands

retained by the Grantor, and to enter upon the Property at all reasonable times but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions herein contained. Grantee, its agents, employees or other representatives, agree to give Grantor reasonable advance notice of its intention to enter and inspect the Property, and further such entrance and inspection shall be in a reasonable manner and at reasonable times. Furthermore, Grantor shall provide any third party with enforcement rights, or its agents, representatives or employees, access to cross other lands retained by Grantor, and permission to enter upon the Property, upon receipt of advance notice of such third party's intention to enter and inspect. Such entrance and inspection shall be in a reasonable manner and at reasonable times.

Covenants

In furtherance of the foregoing affirmative rights, the Grantor makes the following covenants, on behalf of it, its successors, and assigns, lessees, personal representatives and other successors in interest, which covenants shall run with and bind the Property in perpetuity:

1. There shall be no construction activity, alteration of vegetation or change in topography, no development as defined by ECL Section 57-0107(13) and no operations or uses not constituting development pursuant to ECL Section 57-0107(13)(i-xv), unless otherwise expressly reserved herein.
2. There shall be no storing, dumping, discharging or placing of any substance in or on the Property in contravention of any applicable federal, state or local law or ordinance.

Reserved Rights

NEVERTHELESS, and notwithstanding any of the foregoing provisions to the contrary and as expressly limited herein, the Grantor reserves for itself, its successors and assigns the following reserved rights in addition to all those rights previously retained, reserved and defined herein, which may be exercised without written notice to the Grantee.

1. The right of exclusive possession of the Property.
2. The right to use the Property for passive recreational activities such as, but not limited to, hunting, fishing, camping, hiking and activities associated therewith so long as such activities conform to local zoning regulations and do not constitute development as defined in ECL Section 57-0107(13) and do not involve material alteration of native vegetation, involve construction or does not have the potential to result in the increased generation sewage or involve construction.

3. The right to use the Property for scouting activities so long as such activities conform to local zoning regulations and do not constitute development as defined in ECL Section 57-0107(13) and do not materially alter the Property's vegetation.
4. The right to maintain, modify or replace the facilities or structures existing on or in the Property as of the date first written above and shown on the survey entitled Survey for Schiff Scout Reservation Camp Wauwepex, Certified Survey with Photo Overlay, prepared by Young and Young, and last dated October 21, 2008 and as also described in Schedule B attached hereto and made a part hereof and associated with or necessary for the scouting activities provided such maintenance, modification or replacement does not increase the size of the facility or structure or relocate the footprint of the facility or structure or materially alter the Property's vegetation. Grantor may not modify or replace an existing facility or structure in a manner that increases the structure or facility's design sewage flow rate as defined by the Suffolk County Department of Health Services, (hereinafter "Design Sewage Flow") as the same may be modified from time to time. Notwithstanding, anything to the contrary, Grantor shall not modify or replace any existing facility or structure without giving Grantee thirty (30) days advanced written notice.
5. The right to construct, maintain, modify, repair or replace the facilities or structures identified as "Future" structures as shown on the survey entitled Survey for Schiff Scout Reservation Camp Wauwepex, Certified Survey with Photo Overlay, prepared by Young and Young, and last dated October 21, 2008 provided the construction, maintenance, modification, repair or replacement of such structures does not increase the Design Sewage Flow of the Property beyond the Design Sewage Flow of the Property as the same existed on the day first written above. Notwithstanding, anything to the contrary, Grantor shall not construct any facility or structure identified as "Future" structure without giving Grantee thirty (30) days advanced written notice.
6. The right to use the Property for operations or uses described in ECL Section 57-0107(13) (i, ii and vi) upon approval of applicable Federal, State, and local agencies and upon the approval of the Commission, or environmental restoration projects commenced by the Grantor or his heirs, successors or assigns upon approval of applicable Federal, State, and local agencies and upon the approval of the Commission.

Grantor shall have the right to remove vegetation that poses a risk to the health, safety or welfare of Grantor or its invitees or guests. Grantor shall obtain the approval of the Commission or its successors or assigns prior to removing any such vegetation, which approval shall not be unreasonably withheld, unless an emergency condition exists which requires the immediate removal of the

vegetation and makes providing such notice impracticable. In such event, the Grantor shall notify the Commission within five (5) business days of the removal.

7. The right to sell, give or otherwise convey the Property or, consistent with the Covenants herein, any portion or portions of the Property, subject to the terms of this Conservation Easement. The Grantor, upon the sale, gift or other conveyance of his fee interest in the Property, shall have no further obligations or liabilities under this Conservation Easement. Grantor shall promptly notify Grantee of any conveyance of any interest in the Property, including the full names and mailing addresses of all Grantees, and the individual principals thereof, under any such conveyance. The instrument of any such conveyance shall specifically set forth that the interest thereby conveyed is subject to this Conservation Easement, without modification or amendment of the terms of this Conservation Easement, and shall incorporate this Conservation Easement by reference, specifically setting forth the date, office, liber and page of the recording thereof. The failure of any such instrument to comply with the provisions hereof shall not affect Grantee's rights hereunder.

Rights of the Public

Nothing contained in this Conservation Easement shall give or grant to the public a right to enter upon or to use the Property or any portion thereof where no such right existed in the public immediately prior to the execution of this Conservation Easement except as may be granted by the Grantor herein or his successors.

Miscellaneous

1. The parties hereto understand and agree that all the terms and provisions of ECL, Title 3, Article 49, as the same may be hereafter amended, entitled Conservation Easements, shall apply to this Conservation Easement.
2. This Conservation Easement contains the entire understanding between its parties concerning its subject matter. Any prior agreement between the parties concerning its subject matter shall be merged into this Conservation Easement and superseded by it.
3. Any provision of this Conservation Easement restricting Grantor's activities, which is determined to be invalid or unenforceable by a court, shall not be rendered a nullity. Instead, that provision shall be reduced or limited to whatever extent that the court determines will make it enforceable and effective. Any other provision of this Conservation Easement which is determined to be invalid or unenforceable by a court shall be severed from the other provisions, which shall remain enforceable and effective.
4. Regardless of any contrary rule of construction, no provision or alleged ambiguity of this

Conservation Easement shall be construed in favor of one of the parties because it was drafted by the other party's attorney. If any provision of this Conservation Easement is ambiguous or shall be subject to two or more interpretations, one of which would render that provision invalid, then that provision shall be given such interpretation as would render it valid and consistent with the purposes of this Conservation Easement as intended by Grantor. Any rule of strict construction designed to limit the breadth of the restrictions on use of the Property shall not apply in the construction or interpretation of this Conservation Easement, and, this Conservation Easement shall be interpreted broadly to effect the purposes of this Conservation Easement as intended by Grantor. The parties intend that this Conservation Easement, which is by nature and character primarily negative in that Grantor has restricted and limited Grantor's right to use the Property, except as otherwise recited herein, be construed at all times and by all parties to effectuate its purposes.

5. This Conservation Easement can be terminated only in accordance with the law of the State of New York applicable to the termination of easements and covenants running with the land. This Conservation Easement may be modified only upon the written consent of both Grantor and Grantee, or their successors, heirs, representatives or assigns. Grantor and Grantee recognize that circumstances could arise which would justify the modification of certain of the restrictions contained herein. To this end, Grantee and Grantor shall mutually have the right, in their sole discretion, to agree to amendments to this Conservation Easement which are not inconsistent with the basic purpose of this Conservation Easement, provided, however, that the Grantee shall have no right or power to agree to any amendments hereto that would result in this Conservation Easement failing to qualify as a valid conservation easement under ECL, Title 3, Article 49 as the same may be hereafter amended.
6. The Grantor agrees that the terms, conditions, restrictions and purposes of this Conservation Easement shall continue as a servitude running in perpetuity with the Property and will be incorporated by reference in any subsequent deed or other legal instrument by which the Grantor divests itself of either the fee simple title to or its possessory interest in the Property or any portion thereof specifically setting forth the date, and the liber and page of the Suffolk County Clerk's records of the recording hereof.
7. Any notices required in this Conservation Easement shall be written. Notices shall be given either by manual delivery or by mailing in a mail receptacle maintained by the United States Postal Service. Mailed notices must be contained in an accurately addressed, sealed envelope, marked for delivery by first class registered or certified mail, with sufficient prepaid postage affixed and with return receipt requested. Mailed notice to the Grantor shall be addressed to Grantor's address as recited herein or to any such other address as the Grantor may designate by notice in accordance with this section. Mailed notice to the Grantee shall be addressed to Grantee's address as recited herein or to any such other address as the Grantee may designate by notice in accordance with this

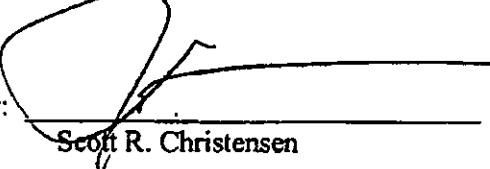
section.

8. It is understood and agreed by the Parties hereto that the Grantor, its successors, heirs and assigns, shall not be liable for any changes to the Property caused by any natural disaster or Act of God. Grantor may restore the Property to substantially the same condition as existed immediately before the occurrence of such natural disaster or Act of God providing such restoration does not materially alter the Property's vegetation. Grantor may restore or repair facility or structure on the Property damaged by a natural disaster or Act of God but in restoring the facility or structure may not increase the Design Sewage Flow rate of the facility or structure or materially alter the Property's vegetation. Prior to commencing any restoration, Grantor shall submit a restoration plan to the Commission for its review and approval. Grantor shall not undertake any restoration activities without giving Grantee thirty (30) days written notice.
9. The Grantor and Grantor's lessees, representatives, successors, heirs and assigns, shall not apply to the Commission or the Pine Barrens Credit Clearinghouse for a hardship, other permit or Pine Barrens Credits under the Plan or under ECL Article 57 pertaining to the "Schedule A" premises.
10. The Grantor does further covenant and represent that the Grantor is seized of the Property in fee simple and has good right to grant and convey the aforesaid Conservation Easement, that the Property is free and clear of any and all encumbrances, other than those of record, and that the Grantee shall have the use of, and enjoy all of the benefits derived from and arising out of, the aforesaid Conservation Easement.
11. The parties hereto recognize and agree that the benefits of this Conservation Easement are in gross and assignable, and the Grantee hereby covenants and agrees that any transferee or assignee will be an organization or public body qualified to hold a Conservation Easement pursuant to ECL, Title 3, Article 49, as the same may be hereafter amended, and the regulations promulgated thereunder.
12. All references to statutory provisions of Article 57 shall be as such provisions were in effect on the date of execution of this Conservation Easement.

IN WITNESS WHEREOF, Grantor has executed and delivered and Grantee has accepted and received this Grant of Conservation Easement on the day and year set forth above.

Nassau County Council Boy Scouts of America Incorporated

By:


Scott R. Christensen

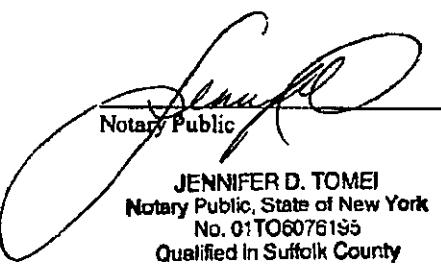
Central Pine Barrens Joint Planning and Policy Commission

By:


Peter A. Scully, Chairman

STATE OF NEW YORK }
COUNTY OF SUFFOLK } ss.:

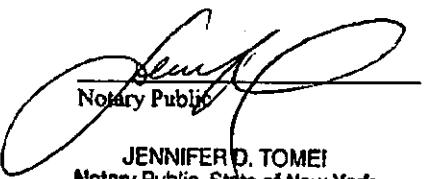
On the 18th day of December in the year 2008 before me, the undersigned, a notary public in and for said state, personally appeared Scott R. Christensen, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument 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

JENNIFER D. TOMEI
Notary Public, State of New York
No. 01TO6076195
Qualified in Suffolk County
Commission Expires June 24, 2010

STATE OF NEW YORK }
COUNTY OF SUFFOLK } ss.:

On the 18th day of December in the year 2008 before me, the undersigned, a notary public in and for said state, personally appeared Peter A. Scully, 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

JENNIFER D. TOMEI
Notary Public, State of New York
No. 01TO6076195
Qualified in Suffolk County
Commission Expires June 24, 2010

ADVANTAGE TITLE AGENCY, INC.

Title No. 06-AS-35736 (611S21141)

SCHEDULE A

Amended June 21, 2007

ALL that certain plot, piece or parcel of land, situate, lying and being at Wading River, Town of Riverhead, Suffolk County, New York, bounded and described as follows:

BEGINNING at a point on the Southerly side of Port Jefferson-Riverhead Road (a/k/a N.Y.S. Route 25A or Sound Avenue), distant the following three (3) courses and distances from the corner formed by the Easterly side of Manorville-Wading River Road with the Southerly side of Port Jefferson-Riverhead Road:

1. North 81 degrees 49 minutes 10 seconds East 801.45 feet;
2. North 83 degrees 04 minutes 40 seconds East 571.46 feet;
3. North 83 degrees 14 minutes 50 seconds East 701.93 feet;

RUNNING THENCE the following four (4) courses and distances:

1. North 82 degrees 54 minutes 41 seconds East 1692.09 feet;
2. South 07 degrees 07 minutes 57 seconds East 6.92 feet;
3. North 83 degrees 50 minutes 44 seconds East 705.37 feet;
4. North 82 degrees 57 minutes 22 seconds East 200.35 feet;

THENCE South 07 degrees 08 minutes 06 seconds East 4298.28 feet;

THENCE South 81 degrees 05 minutes 32 seconds West 900.54 feet;

THENCE South 30 degrees 18 minutes 32 seconds West 788.46 feet;

THENCE North 07 degrees 07 minutes 38 seconds West 182.35 feet;

**FOR
CONVEYANCING
ONLY**

The policy to be issued under this report will insure the title to such buildings and improvements erected on the premises which by law constitute real property.

TOGETHER with all the right, title and interest of the party of the first part, of, in and to the land lying in the street in front of and adjoining said premises.

ADVANTAGE TITLE AGENCY, INC.

Title No. 06-AS-35736 (611S21141)

SCHEDULE A (continued)

THENCE South 63 degrees 04 minutes 42 seconds West 663.87 feet;

THENCE South 07 degrees 14 minutes 58 seconds East 20.48 feet;

THENCE South 73 degrees 02 minutes 32 seconds West 190.38 feet;

THENCE South 66 degrees 56 minutes 52 seconds West 601.14 feet;

THENCE South 78 degrees 03 minutes 52 seconds West 517.42 feet;

THENCE South 72 degrees 30 minutes 42 seconds West 624.99 feet;

THENCE North 12 degrees 02 minutes 00 seconds West 747.24 feet to a point on the Easterly line of Manorville-Wading River Road;

THENCE North 02 degrees 33 minutes 11 seconds West 911.74 feet;

THENCE North 07 degrees 01 minute 47 seconds West 801.00 feet;

THENCE South 82 degrees 58 minutes 13 seconds West 222.01 feet to a point on the Easterly side of Manorville-Wading River Road;

THENCE along the Easterly side of said road, North 23 degrees 35 minutes 17 seconds West 225.06 feet;

THENCE North 82 degrees 58 minutes 13 seconds East 294.70 feet;

THENCE North 07 degrees 01 minute 47 seconds West 1388.43 feet;

THENCE North 83 degrees 24 minutes 40 seconds East 585.19 feet;

THENCE North 07 degrees 10 minutes 30 seconds West 211.70 feet;

FOR
CONVEYANCING
ONLY

The policy to be issued under this report will insure the title to such buildings and improvements erected on the premises which by law constitute real property.

TOGETHER with all the right, title and interest of the party of the first part, of, in and to the land lying in the street in front of and adjoining said premises.

ADVANTAGE TITLE AGENCY, INC.

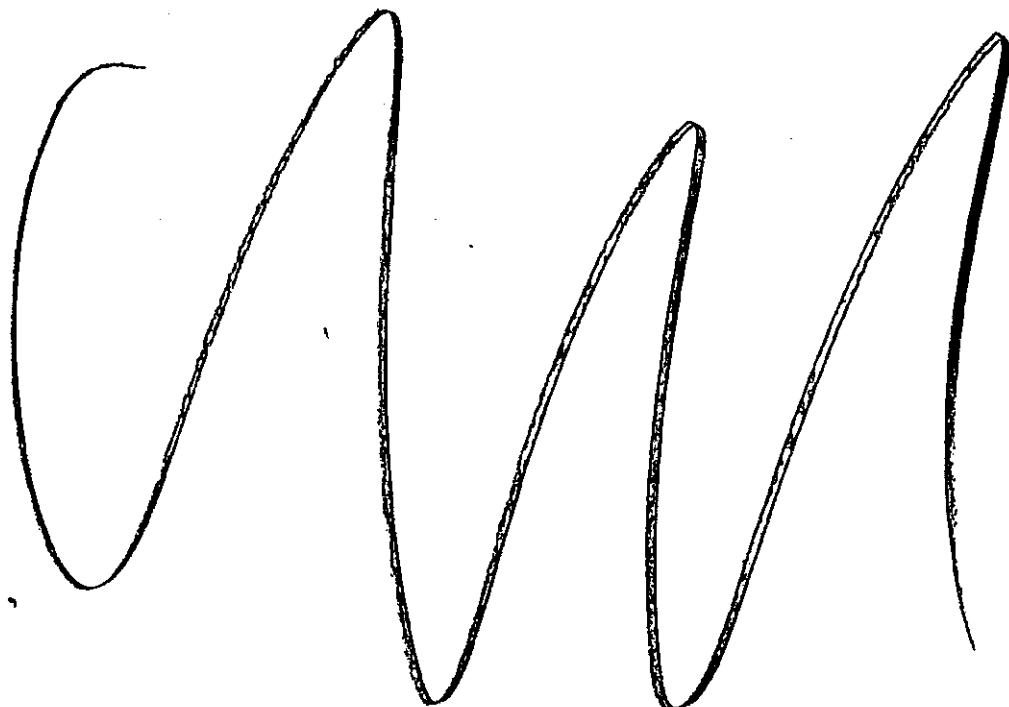
Title No. 06-AS-35736 (611S21141)

SCHEDULE A (continued)

THENCE North 83 degrees 14 minutes 17 seconds East 699.14 feet;

THENCE North 05 degrees 54 minutes 24 seconds West 684.01 feet;

THENCE North 08 degrees 29 minutes 22 seconds West 416.11 feet to the point or place of BEGINNING.



**FOR
CONVEYANCING
ONLY**

The policy to be issued under this report will insure the title to such buildings and improvements erected on the premises which by law constitute real property.

TOGETHER with all the right, title and interest of the party of the first part, of, in and to the land lying in the street in front of and adjoining said premises.

Schedule B

Name of Building or Area	Number of Structures	Dimension of Structure	Number of Toilets	Use power or Nature	Future Addition	Notes
Ranger's House	1	36' x 36'	1	Residence	2nd Story	
Henderson Building	1	34' x 32'	2	Shop/Office	N/A	
Maintenance Barn	2	12' x 36' (trans.) 8' x 4' (shed)	0	Storage	Future Bldg. 40' x 80' N.W. and adjacent to Henderson	
Grace Building	1	53' x 30'	1	Temp. Res.	N/A	
Central Latrine	1	10' x 18'	3	Restrooms	N/A	
Wolff Cabin	1	29' x 37'	0	Temp. Res.	N/A	
Ortlundsen Cabin	1	38' x 24'	0	Temp. Res.	N/A	
Buckskin Lodge	1	35' x 25'	0	Temp. Res.	N/A	
Nature Lodge	1	28' x 28'	0	Instruction	N/A	
Cozy Cabin	1	29' x 29'	1	Temp. Res.	N/A	
Hunter Shelter	1	13' x 14'	0	Temp. Res.	N/A	
Newell Building	1	32' x 53'	2	Learn-To	N/A	NE of Henderson
Noble Cope Course	19	See note	0	Instruction	N/A	Training Building
Archery Center	3	See note	0	Hopper Course	Yes	
T.R. Pavilion	1	34' x 52'	0	Archery Course	N/A	
Smith Building	1	24' x 20'.	0	Crafts Instruction	N/A	
Catholic Chapel	1	29' x 22'	1	Temp. Res.	N/A	
B.B. Gun Range	1	13' x 51'	0	Church	N/A	
Scrimmire Cabin	2	24' x 29' Sheet 12' x 7'	0	Shooting/Sports	N/A	
Scrimmire Ring	6	See note	0	Historic	7' x 15' addition	(19) Utility Poles for Course
Hayden Hall	1	63'0" x 50"	1	Ceremonial	N/A	
Caboose	1	50' x 17'	0	Gen. Assembly	N/A	
O.A. Storage	1	20' x 19'	0	Display	N/A	
Shelter	1	20' x 26'	0	Storage	N/A	First structure East of Shooting Range, along road
Deserete Cabin	1	15' x 23'	0	Storage	N/A	Structure directly East of O.A. Storage.
Levins Shrine	1	17' x 24'	0	Temp. Res.	N/A	Adjacent road
House of Doers	1	48' x 27'	15	Instruction	N/A	Structure directly South of Deserete Cabin.
Family Camping Area	0	375' x 194'	0	Restrooms	N/A	Restrooms directly east of Deserete Cabin.
Pump House 1	1	15' x 12'	0	Tractor Pads	N/A	Area directly South of House of Doers, East of Caboose.
Pump House 2	1	9' x 10'	0	Water Supply	N/A	West side of pond near DEC access.
Refuge Shelter	1	20' x 32'	0	Water Supply	N/A	East side of pond, NE of Prodigem Camp.
O.A. Reg. 1	4	8' Fire Ring, 3 totem poles.	0	Instruction	N/A	1 story structure in present Campfire Course Area.
Brotherhood Ring	1	48' x 27'	15	Generational	N/A	Wooden benches.
Gulchrette Cabin	1	18' x 28'	0	Generational	N/A	No improvements.
Heck Cabin	1	25' x 35'	0	Restrooms	N/A	12 Toilets, 2 Urinals.
Wolff Cabin	1	36' x 26'	0	Temp. Res.	N/A	
Kruth Campsite	5	See note	0	Campsite	N/A	
Scrimmire Campsite	6	See note	0	Campsite	N/A	(1) 10' Fire Ring, (3) 11' x 13' Lean-To, (1) 20' x 20' concrete shelter.
Adult Product Campsite	6	See note	0	Campsite	N/A	No longer in use, future lean-to site.
Indian Rock Campsite	5	See note	0	Campsite	N/A	Presently in use, future cooking.
Parrot Rock Campsite	5	See note	0	Campsite	N/A	
Tombstone Campsite	5	See note	0	Campsite	N/A	
Santa Fe Campsite	10	See note	0	Campsite	N/A	
Coyote Creek Campsite	7	See note	0	Campsite	N/A	
Leopard Campsite	7	See note	0	Campsite	N/A	
Puma Campsite	5	See note	0	Campsite	N/A	
Beaver Campsite	8	See note	0	Campsite	Yes	(4) Demolished Lean-To, future reconstruction.
Stone Campsite	1	94' diameter	0	Campsite	N/A	
Stone Campsite	1	94' diameter	0	Histoic	N/A	

Schiff Scout Reservation

Riverhead, NY

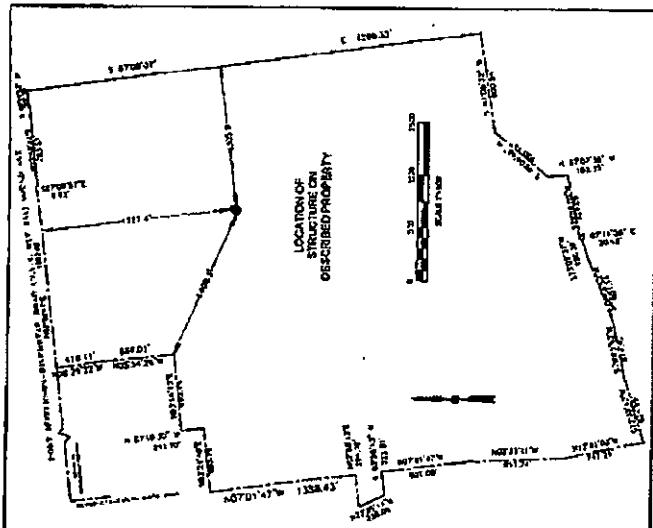
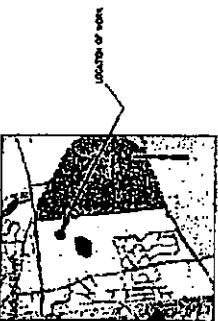
Prepared by Nassau County Council Boy Scouts of America (Glenn Gabbard)

Date: December, 2008

SCTM 600-75-03-10.3

TABLE OF SANITARY TIES

BUILDING CORNERS			
Covers	A	B	C
CD1	15.72	14.70	D
CD2	16.33	15.85	
CD3	16.59	16.00	
CD4	17.65	24.17	
GT1	19.84	24.51	
GT2	21.41	25.49	
ST1	23.40	—	
ST2	24.19	26.53	
DP1	65.00	—	
DP2	64.18	—	



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