

# SUFFOLK COUNTY PLANNING COMMISSION

c/o Suffolk County Department of Economic Development & Planning  
100 Veterans Memorial Highway, PO Box 6100, Hauppauge, NY 11788-0099  
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Joanne Minieri, Deputy County Executive and Commissioner, Department of Economic  
Development and Planning  
Sarah Lansdale, Director of Planning

## **NOTICE OF MEETING**

July 3, 2013 at 1:00 p.m.

Maxine S. Postal Auditorium  
Evans K. Griffing Building, Riverhead County Center  
300 Center Drive Riverhead, New York 11901

### **Tentative Agenda Includes:**

1. Meeting Summary for June 2013
2. Public Portion
3. Chairman's Report
4. Director's Report
5. Guest Speakers
  - Tullio Bertoli, Commissioner, Town of Brookhaven
  - David Genaway, Commissioner, Town of Islip
  - Anthony Manetta, CEO of Suffolk County IDA
6. Section A 14-14 thru A 14-23 & A 14-25 of the Suffolk County Administrative Code
  - Islip Pines, 0500-21700-0200-030002 (Town of Islip)
  - Adoption of Carmans River Conservation & Management Plan (Town of Brookhaven)
  - Moratorium on certain construction, use and occupancy applications in D-3 (Village of Patchogue)
  - Local Law providing for temporary moratorium on demolitions (Village of Shoreham)
  - Extending temporary moratorium on dock approvals (Village of North Haven)
7. Section A-14-24 of the Suffolk County Administrative Code  
None
8. Discussion:
9. Other Business:

**NOTE:** The **next meeting** of the SUFFOLK COUNTY PLANNING COMMISSION will be held on August 7, 2013 at 2:00 p.m. Rose Caracappa Auditorium W.H. Rogers Legislature Bldg., 725 Veterans Memorial Highway, Smithtown, NY



Steven Bellone  
SUFFOLK COUNTY EXECUTIVE  
Department of  
Economic Development and Planning

Joanne Minieri  
Deputy County Executive and Commissioner

Division of Planning  
and Environment

**STAFF REPORT**

**SECTIONS A14-14 THRU A14-25 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE**

**Applicant:** Islip Pines  
**Municipality:** Town of Islip  
**Location:** N/E/C NYS Rte. 454 (Veterans Mem. Hwy.) and NYS Rte. 27 (Sunrise Hwy.)

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**Received:** 5/29/2013  
**File Number:** IS-13-04  
**T.P.I.N.:** 0500 21700 0200 030002 et al  
**Jurisdiction:** Within 500" NYS Rte. 454 and NYS Rte. 27: within 1/2 mile of MacArthur Airport

**ZONING DATA**

- Zoning Classification: ICD/IND1/AA
- Minimum Lot Area: 120,000. Sq. Ft.
- Section 278: No
- Obtained Variance: No

**SUPPLEMENTARY INFORMATION**

- Within Agricultural District: No
- Shoreline Resource/Hazard Consideration: No
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: Yes
- Property has Historical/Archaeological Significance: No
- Property Previously Subdivided: No
- Property Previously Reviewed by Planning Commission: Yes
  - File: IS-98-06
  - Date: September 2, 1998
- SEQRA Information: Yes
- SEQRA Type: DEIS
- Minority or Economic Distressed: No

**SITE DESCRIPTION**

- Present Land Use: vacant
- Existing Structures: none

- General Character of Site: rolling
- Range of Elevation within Site: 40-60' amsl
- Cover: wooded
- Soil Types: Carver, Plymouth and Riverhead associations
- Range of Slopes (Soils Map): 0-15%
- Waterbodies or Wetlands: none

**NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST**

- Type: Code amendment/COZ and concept pln. approval
- Layout: PDD
- Area of Tract: 143.23 Acres

**ACCESS**

- Roads: existing NYS Rte. 454 and NYS Rte. 27
- Driveways: private

**ENVIRONMENTAL INFORMATION**

- Stormwater Drainage
    - Design of System: CB & LP
    - Recharge Basins: yes + pond
  - Groundwater Management Zone: I
  - Water Supply: public
  - Sanitary Sewers: off site STP
- 

**PROPOSAL DETAILS**

**OVERVIEW:** Application is made to the Islip Town Board for the adoption of amendments to the Zoning Law (Chapter 68 of the Code of the Town of Islip) to establish an Islip Mixed-Use Planned Development District (IMUPDD), including change of zone on the subject 143 acre property to the new district and the approval of a Revised Conceptual Master Plan (Revised Conceptual Site Layout Plan) for the Islip Pines development. The subject property is situated in the hamlet of East Holbrook.

The IMUPDD regulations are proposed to established development parameters within which the property will be developed in a manner consistent with the proposed Islip Pines Conceptual Site Layout Plan (see attached). In addition to the Legislative Intent to develop an “environmentally-respectful mixed-use community which incorporates modern planning principals and encourages the productive use of a suitable property to create conditions where the next-generation workforce can leverage industrial, commercial, office, retail, dining and entertainment, recreational, cultural, civic and workforce residential opportunities in a walkable community which also provide benefits for the larger Islip community.” The PDD includes six floating sub-districts to more accurately encompass and reflect the uses that are permitted within the development proposal. Total development within the PDD cannot exceed an FAR of 0.5. The maximum height of the sub-districts varies between 50 and 60 feet, and setbacks are specified for each sub-district. The maximum permitted total square footage/units permitted in each sub-district are defined in the PDD and are indicated in the below table.

According to the Revised Conceptual Site Layout Plan (March 2013) referred to the Suffolk County Planning Commission the proposed development will consist of approximately 2.5 million square feet of total building area and 6,736 off street parking stalls. There are proposed six athletic fields, tennis courts and a great lawn area as part of the development. The Islip Pines proposal, as referred to the SCPC currently contains the proposed mix of uses as indicated in the below table.:

Sub-district	Permitted Square Footage (SF)	Proposed Square Footage (SF)	Proposed % of Project (based on SF)	Proposed Use Description
IMU-Industrial (light Ind., R&D and office)	1,000,000 SF	818,130 SF	38.2 %	Industrial/Research and Development/ Office -Six (6) 3&4-story bldgs.
IMU-Services (commercial business services)	100,000 SF	61,300 SF	2.9%	Commercial Services (mixed use bldgs. and free standing one story bldgs). - Five (5) 1-story bldgs. (Including: Medical Office, Pad Store, Day Care)
IMU-Retail (retail/wholesale & comm. on upper floors of mix use bldgs.)	350,000 SF	339,700 SF	15.9%	Retail -Three (3) 1-story bldgs.
Mixed Use Flex Buildings		302,820 SF	14.2%	Retail/Flex Loft Office (within mixed use bldgs.) -Seven (7) 3-story bldgs.
IMU-Residential (350 units)	350 units – 402,774 SF (revised concept plan)	350 Units-402,774 SF	18.8%	Residential – 350 units (250 workforce, 100 market-rate) -Eight (8) 3-story bldgs.
IMU-Entertainment (cultural, dining, hospitality)	250,000 SF	190,800 SF	8.9%	Entertainment/Hospitality -Two (2) 3-story and Two (2) 1- story bldgs.  (Including: 1,800 seat Multiplex Theater, Restaurants, Hotel/conference)
IMU-Civic (bldgs./markets)	60,000 SF	21,218 SF	1.0%	Civic Buildings and Park Maintenance Floor Area -Thirteen (13) 1-story bldgs. (Including: Youth/Senior Center, Tennis Pavilion, Rest Rooms, Vending Areas)
<b>Sub-district Totals</b>	2,162,774 SF	2,136,742 SF	100%	<b>Parking Information:</b> <b>Required</b> – 5,174 Spaces <b>Provided:</b> 2 Parking Structures (392,370 SF) – 2,420 Spaces Below Grade – 1,168 Spaces Dedicated Parking Lots – 2,020 Spaces On Street – 1,128 Spaces Total – 6,736 Spaces

\*With Parking Total Proposed Development is 2,529,112 SF (Maximum Permitted Square Footage for the IMUPDD is 2,968,614 SF).

The development is designed in a ring around “The Great Lawn” with entertainment and retail/loft buildings fronting the lawn and retail and industrial buildings fronting Sunrise Highway (NYS Rte. 27). The residential component is located at the northern end of the subject property in the vicinity of the ball fields. The multifamily buildings front on the internal ring road and back onto parking fields and the retail/loft buildings.

Potable water is proposed to be supplied via the public water system. A Suffolk County Water Authority well field and elevated water storage tower is located to the west and across Veterans Memorial Highway (NYS Rte. 454). The SCWA has indicated sufficient capacity for the proposed development.

Waste water from the envisioned IMUPDD Islip Pines development is proposed to be pumped off site to Suffolk county Sewer District # 14; Parkland, to the north of the subject property. The Parkland Sewage Treatment Plant has 210,000 gallons per day reserved for the subject property.

Access to the proposed development is to be from four (4) main boulevard type roadways. One access is proposed opposite Church Street on Veterans Memorial Highway (NYS Rte. 454) and a second on the Sunrise Highway North Service Road (NYS Rte. 27). The third and fourth main boulevard access points are located at the north east and southeast corners of the subject property. The northern access is proposed to be an extension of Collin Drive (Town road). The southeast access is to Beacon Drive (Town Road) which separates the subject property from commercial and industrial uses to the east. Two (2) additional access points from the proposed development to Beacon Drive are also proposed. Bus pavilions are proposed in several locations throughout the internal road network.

The subject property is situated in Hydro-geologic Ground Water Management Zone I pursuant to Article 6 of the Suffolk County Sanitary Code. The site is not located in a NYS Special Groundwater Protection Area (SGPA). No fresh or tidal wetlands occur on site or in the immediate vicinity. To the south, across the intersection of Veterans Memorial and Sunrise Highways, the headwaters of the Sans-Soucci Lakes system (Browns Creek Watershed) originate and are regulated by the NYS DEC.

Storm Water runoff is proposed to be contained onsite via catch basins and leaching pools. An existing recharge basin is located in the northwest corner of the property and several pond/retention basin(s) are proposed throughout the development layout.

In July of 1998 the Suffolk County Planning Commission received a change of zone application for a 47 acre portion of the subject property. The proposal was for the conversion from Industrial I and Industrial Corridor District to Business 3 District. The conceptual development plan called for a total of 287,000 SF of retail consisting of two retail stores, a movie theater and three restaurants.

On September 2, 1998 the Suffolk County Planning commission disapproved the referred change of zone application for the following seven (7) reasons:

1. It is inconsistent with policy objectives of the Town of Islip Comprehensive Plan which call for a limitation on the proliferation of commercial development along major highway corridors;

2. It contravenes past actions of the Town Board which significantly diminished commercial zoning in accordance with the 1986 Sunrise Highway Corridor Study;
3. It is inconsistent with the Suffolk County Master Plan, the 1991 Long Island Regional Planning Board Commercial Development Analysis and the 1997 Suffolk County Retail Commercial Development Study (adopted by the Planning Commission) which calls for promoting identifiable communities, limiting new commercial development along major roadways and providing for the rehabilitation and use of existing underutilized business and commercial centers, including downtown areas such as Sayville and Holbrook;
4. It constitutes the unwarranted further perpetuation of commercial development along Sunrise Highway (N.Y.S. Rte. 27);
5. It would tend to establish a precedent for further such downzoning's in the local along Sunrise Highway;
6. It contravenes past actions of the Town Board in reclassifications of premises for non-commercial purposes; and
7. Premises can be reasonably developed in accordance with existing zoning requirements.

The petitioners have submitted that based upon the proposed development history of the subject parcel, and upon the comments made at public hearings and received during and after the environmental quality review process, as well as discussions with representative of the Town of Islip, the Conceptual Master Plan has been revised to be more responsive to the input of the community and has resulted in a revised concept that is more cohesive and walkable. As compared to more recent development proposals for the property the retail component has been scaled back. The current concept includes a greater amount of green space as compared to more recent concept proposals. The revised concept also includes an increase in the residential unit component to a maximum of 350 units.

### **STAFF ANALYSIS**

**GENERAL MUNICIPAL LAW CONSIDERATIONS:** New York State General Municipal Law, Section 239-1 provides for the Suffolk County Planning Commission to consider inter-community issues. Included in such issues are compatibility of land uses, community character, public convenience and maintaining of a satisfactory community environment.

There has been significant interest in the proposed action from neighboring communities regarding the proposed action on neighboring commercial business districts. The proposal is intending to add approximately 339,700 SF retail, 302,820 SF of Retail/flex office space, a cinema, restaurants, hotel, and additional commercial services. Vacancy rates for the area have been tracked by Suffolk County Planning and are indicated below:

Retail Center Survey Results by Community, 2010										
Selected Communities in Suffolk County, New York										
Shopping Centers						Downtowns				
Community	-----Storefronts-----			Vacancy Rate	Total Stores	-----Storefronts-----			Vacancy Rate	Total Stores
	Retail	Non-retail	Vacant			Retail	Non-retail	Vacant		
<i>Town of Islip communities:</i>										
Bayport	14	14	5	15%	33	2	11	2	13%	15
Bohemia	64	29	11	11%	104					
Holbrook	79	67	23	14%	169					
Oakdale	35	49	18	18%	102					
Sayville	33	32	18	22%	83	71	54	14	10%	139
West Sayville	6	6	2	14%	14	8	10	2	10%	20
<i>Town of Brookhaven communities:</i>										
Blue Point	6	8	2	13%	16					
North Patchogue	65	23	13	13%	101					
Patchogue village	14	12	3	10%	29	75	74	26	15%	175
<b>Area Total</b>	<b>316</b>	<b>240</b>	<b>95</b>	<b>15%</b>	<b>651</b>	<b>156</b>	<b>149</b>	<b>44</b>	<b>13%</b>	<b>349</b>
Source: Suffolk County Planning										
K:\PLambert\Retail\Retail 2010\Vacancy and storefront data by community.xlsx										

A field inspection in June 2013 revealed that the vacancy rate in Sayville’s downtown had improved to 6%, while the vacancy rate in Patchogue had slightly increased to 11%. The smaller downtowns of Bayport and West Sayville had vacancy rates of 8% and 14%, respectively.

The petitioners have put forth that the project is not intended to compete with local store owners and has indicated a desire to draw national chains such as an Apple Store, Men’s Warehouse, Gap, Carrabba’s Italian Grill and Dick’s sporting Goods as potential tenants for the space. The petitioners however, have also put forth that the focal point of the project will be a “regional commercial center...with unique pedestrian friendly mixed use environment reminiscent of a small hamlet...( [www.serotaproperties.com/islip\\_pine.html](http://www.serotaproperties.com/islip_pine.html) ).”

With respect to public convenience, ingress/egress issues to the access points on the Sunrise Highway Service Road (NYS Rte. 27) raise issues of safety as motor vehicles “weave” in an out of lanes to access the on ramp to the highway. The service road is heavily congested during peak hours. Access to the roadway is under the jurisdiction of the New York State Department of Transportation. The petitioners indicate (FEIS) that the traffic impacts generated by the proposed development would generally be mitigated to acceptable operating conditions within the study area once recommended mitigation measures are implemented (restriping/widening 454/Broadway Ave., signal timing improvements [Church Street, North and South Service Roads, Nicholls Road and Colin Drive]). In addition the Closure of Beacon Drive is considered though the impact on congestion management is still to be determined by the Town of Islip and the State Department of Transportation.

It should also be noted that the within the development site the Conceptual Site Plan proposes more parking spaces (6,736 spaces) than is required (5,174 spaces) by the Islip Mixed-Use Planned Development District. In addition throughout the development site several bus pavilions are

proposed. The petitioner should be required to initiate requests to the Suffolk County Department of Public Works (SCDPW)-Traffic Safety Division regarding altering existing bus routes to serve the proposed development.

The petitioners have addressed community character concerns by reducing the height of proposed buildings and increased the green space and buffering components of the intended development.

It is the belief of staff that some measure of phasing in of the proposed mix of uses would mitigate the impact to the surrounding community including area retail and business districts. The “master plan” should include a metric for the maintaining of a ratio of uses for the mixed use component and a phasing schedule. If possible the residential component should be accelerated to create a synergy with any retail or commercial uses developed onsite and to lessen impacts to existing markets.

**LOCAL COMPREHENSIVE PLAN RECOMMENDATIONS:** The Town of Islip Community Identity Plan for Holbrook/Bohemia designates this area for industrial development but makes no specific recommendations for the subject property. The general goals of the Plan are to promote a variety of housing types, recreational services, preserve open space, protect natural resources, protect identifiable communities and focus commercial development in downtown areas while reducing strip commercial development.

The 1988 Town of Islip Sunrise Highway Corridor Study recommends as an objective of future planning along the roadway corridor retaining industrial zoning along the corridor and enhancing existing downtown centers by resisting the conversion of land to retail development along the highway. The study does not recommend retail uses outside of identifiable nodes (Policy Plan pg. 15). While several studies have been conducted since the adoption of the Towns Comprehensive Plan no new corridor study or plan with specific recommendations for this property has yet to be adopted by the Town.

It is the belief of the staff that the subject properties location as a transition between single family residences to the north and commercial uses to the east, as well as the site’s proximity to major roadways makes it appropriate for use as multi-family housing. The industrial and recreational aspects of the proposed development appear to be in conformance with Town Islip Planning documents.

**SUFFOLK COUNTY PLANNING COMMISSION GUIDELINE CONSIDERATIONS:**

The Suffolk County Planning Commissions has identified six general Critical County Wide Priorities and include:

1. Environmental Protection
2. Energy efficiency
3. Economic Development, Equity and Sustainability
4. Housing Diversity
5. Transportation and
6. Public Safety

These policies are reflected in the Suffolk County Planning Commission Guidebook (unanimously adopted July 11, 2012). Below are items for consideration regarding the Commission policies:

In terms of environmental protection, green space (natural and landscaped) is proposed to comprise 39.7 % of the subject development. Storm water runoff is to be treated via catch basins, leaching pools, proposed ponds and a recharge basin. The main civic feature is a large park (great lawn), arboretum, fountain and floating plaza with an open water area. It is the belief of the staff that the petitioners should review the Suffolk County Planning Commission publication on *Managing Stormwater-Natural Vegetation and Green Methodologies* and incorporate into the Revised Site Layout Plan where practical, design elements contained therein.

Energy Efficiency is addressed in the proposed Revised Conceptual Master Plan by reducing impervious and building areas by comparison to prior proposals. In addition, many of the building roofs are proposed to include green technologies including green roof systems, solar panels, atrium spaces, skylights and white roof systems.

The proposed action in and of itself can be considered an economic development initiative: 1,609 estimated full time construction jobs (FEIS pg. 106), 3,000 estimated permanent employment opportunities (FEIS pg. 7), \$7.84 million dollars in annual sales tax (FEIS pg. 123), and approximately \$8.6 million in annual gross property tax (FEIS pg. 7). As indicated above, it is the belief of staff that some measure of phasing in of the proposed mix of uses would mitigate the impact to surrounding the surrounding community including area retail and business districts. The “master plan” should include a metric for the maintaining of a ratio of uses for the mixed use component and a phasing schedule. If possible the residential component should be accelerated to create a synergy with any retail or commercial uses developed onsite and to lessen impacts to existing markets.

The provision of a mix of workforce and market rate housing increases the diversity of housing stock in the immediate vicinity and in the general area as a whole and addresses housing equity concerns. Moreover, a range of employment opportunities will exist at the completion of the proposed project addressing issues regarding equity in employment.

When considering transportation issues much has been proposed regarding access to and from the subject property including motor vehicle trip volumes, congestion and weave distances, road closure (Beacon Drive) and new signalization (Church Street). All improvements that involve Suffolk County and/or New York State roads would be subject to review and approval of SCDPW and/or NYSDOT. Several bus pavilions are proposed throughout the site development. The Transit Division of the Suffolk County Department of Public works should be contacted to establish bus routes through the subject property. Off street parking and internal road circulation comments from staff are reserved for subsequent site plan referrals from the Town of Islip. It should also be noted that Bus Rapid Transit is being considered in a Suffolk County Bus Rapid Transit Feasibility Study for the closely located, north/south running, Nicholls Road (C.R. 97). The subject development would be a suitable “Innovation Zone” or development node pursuant to the County’s Connect Long Island Initiative. The petitioners should work with Suffolk County to investigate possible connections between the development site and a future Bus Rapid Transit Shuttle.

A review of the IMUPDD by staff suggests the following considerations:

Height limitations in the proposed code should reflect the height of the buildings in each sub-district shown on the “Revised Conceptual Site Layout Plan.” For example, in the IMU-I Industrial sub-district height is permitted to sixty (60) feet. The Layout Plan does not show any of the industrial buildings to be no more than a four (4) story building. The difference between story and height should be clarified in the IMUPDD ordinance.

Some permitted uses in the proposed sub-districts can be considered classic “main street” type uses. The IMUPDD should be reviewed to tailor or modify uses that would be in serious competition with established commercial business districts and downtowns in the area.

### **STAFF RECOMMENDATION**

**Approval** with the following **Modification** and **Comments**:

*Modification:*

1. The IMUPDD shall be revised to include text regarding a metric for the maintaining of a ratio of uses for the mixed use component and a phasing schedule.

*Reason:*

There has been significant interest in the proposed action from neighboring communities regarding the potential impact the proposed action may have on neighboring commercial business districts. The proposal is intending to add approximately 339,700 SF retail, 302,820 SF of Retail/flex office space, a cinema, restaurants, hotel, and additional commercial services.

*Comments:*

1. Some permitted uses in the proposed sub-districts can be considered classic “main street” type uses. The IMUPDD should be reviewed to tailor or modify uses that would be in serious competition with established commercial business districts and downtowns in the area.
2. The petitioners should be encouraged to review the Suffolk County Planning Commission Publication entitled *Study of Man Made Ponds in Suffolk County* and incorporate into the Revised Site Layout Plan, where practical, design elements contained therein.
3. Access to the major roadway from the subject property is under the jurisdiction of the New York State Department of Transportation. The applicants should reach out to/continue dialogue with the Department for all necessary curb cut and access permits to the State ROW’s.
4. The Transit Division of the Suffolk County Department of Public works should be contacted to establish bus routes through the subject property.

5. The petitioners should work with Suffolk County to investigate possible connections between the development site and a future Bus Rapid Transit Shuttle per the Connect Long Island Initiative.



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1 inch = 500 feet

0 200 400 600 800 1,000 Feet

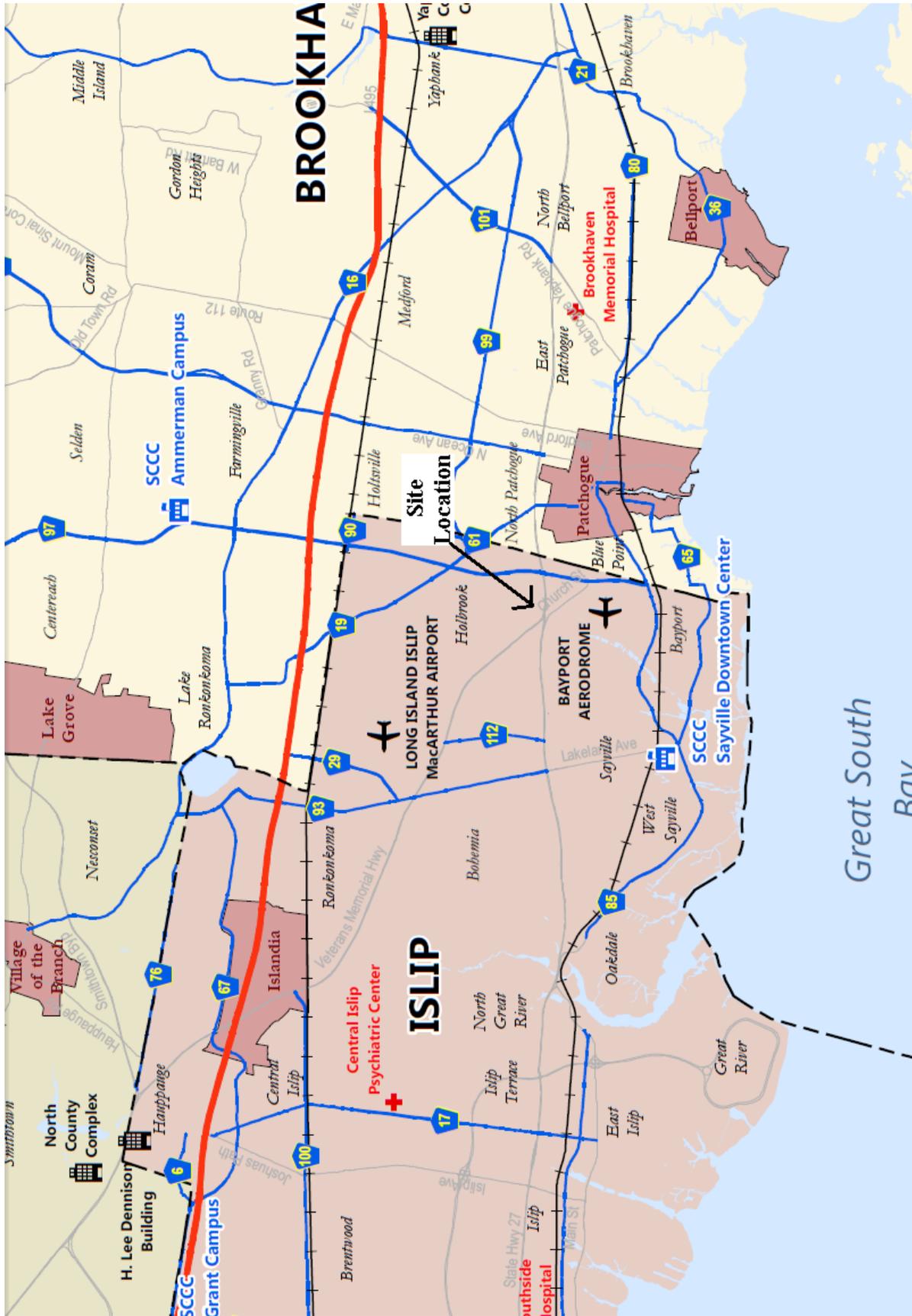
SUFFOLK COUNTY  
 Suffolk County, New York  
 11770

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 23900 0100 006001, 007000, 017002,  
 017005, 017006 & 017007

Application: Islip Pines  
 SCPD No.: IS-13-04

Date: 07/03/13





**CODE OF THE TOWN OF ISLIP**

**VOLUME II**

**CHAPTER 68**

**ZONING**

**ARTICLE \_\_\_\_\_**

**Use District Regulations**

**Islip Mixed-Use Planned Development District (IMUPDD)**

**68-\_\_ Legislative Intent.**

- A. The purpose and intent of the Islip Mixed-Use Planned Development District (IMUPDD), to be located on approximately one hundred forty (140) acres located on the northeast corner of Sunrise Highway (NYS Route 27) and Veterans Memorial Highway (NYS Route 347), is primarily to enable the development of an environmentally-respectful mixed-use community which incorporates modern planning principals and encourages the productive use of a suitable property to create conditions where the next-generation workforce can leverage industrial, commercial, office, retail, dining and entertainment, recreational, cultural, civic, and workforce residential opportunities in a walkable community which also provides benefits for the larger Islip community. These IMUPDD regulations are intended to establish development parameters within which the property will be developed in a manner consistent with the Islip Pines Revised Conceptual Master Plan and the Islip Pines Revised Conceptual Site Layout Plan (collectively, the "Islip Pines Revised Conceptual Master Plan") both adopted by the Town Board simultaneously with this section.
- B. The IMUPDD will provide for the following subdistricts, each intended to integrate with one another and provide for the flexibility of design integral to a mixed use community: (1) industrial, research and development, and office uses in an industrial subdistrict; (2) commercial service, business and business services in a services subdistrict; (3) workforce and full market value housing in a residential subdistrict; (4) ground-floor retail and flexible use space in a retail subdistrict; (5) civic, recreation, athletic, and community/public assembly uses in a civic subdistrict; and (6) entertainment, cultural, dining and food service, and hospitality uses in an entertainment subdistrict.
- C. Development in this district shall be in accordance with an approved conceptual master plan, which shall contain parameters relating to locations of subdistricts, density, open space, and associated improvements and utilities.
- D. To the extent that this local law is inconsistent with New York State Town Law or any of the various laws, rules, and regulations of the Town of Islip, it shall supersede such provisions.
- E. Unless provided to the contrary in this Code section, the definition of words used in this Code section shall be the same as provided in this chapter (Zoning).

- F. Unless provided for otherwise in the IMUPDD, all aspects of the development of the Islip Pines Revised Conceptual Master Plan shall be in conformance with the Town of Islip Subdivision and Land Development Regulations.
- G. Due to the mixed-use nature of development permitted hereunder, total development pursuant to the Islip Pines Conceptual Master Plan shall not exceed .50 FAR.

**68-\_\_ Designation of Subdistricts.**

The following subdistricts shall identify generally the uses on an IMUPDD Conceptual Master Plan but by the very mixed-use nature of the development permitted herein, definite division into subdistricts is counterproductive to the goal of mixed-use development. Therefore, development pursuant to the IMUPDD does not require that the uses in each subdistrict be separated from uses in any other subdistrict. The existence of uses defined in separate subdistricts located adjacent to or combined with each other shall not violate the terms hereof and, contrarily, should be encouraged and permitted wherever practical.

- A. IMU Industrial (IMU-I) – A mixed-use subdistrict which permits light industrial, research and development, and office uses. To accomplish a true mixed use development, land for the development of the uses described in this subdistrict does not have to be contiguous with other land in the IMU-I subdistrict. The total developable square footage in this subdistrict shall not exceed 1,000,000 square feet.
- B. IMU Services (IMU-S) – A mixed-use subdistrict which permits commercial services, business and business service uses. To accomplish a true mixed use development, land for the development of the uses described in this subdistrict does not have to be contiguous with other land in the IMU-S subdistrict. The total developable square footage in this subdistrict shall not exceed 100,000 square feet.
- C. IMU Residential (IMU-RES) – A mixed-use subdistrict which permits workforce and full market value housing, and associated residential amenities, to address the identified on Long Island need for quality workforce housing and full market value housing within walking distance to business, recreation, entertainment, civic, and retail opportunities on Long Island. To accomplish a true mixed use development, land for the development of the uses described in this subdistrict does not have to be contiguous with other land in the IMU-RES subdistrict. The total number of residential units in this subdistrict shall not exceed 350 units.
- D. IMU Entertainment (IMU-E) – A mixed-use subdistrict which permits entertainment, cultural, dining and food service, and hospitality uses. To accomplish a true mixed use development, land for the development of the uses described in this subdistrict does not have to be contiguous with other land in the IMU-E subdistrict. The total developable square footage in this subdistrict shall not exceed 250,000 square feet.
- E. IMU Civic (IMU-C) – A mixed-use subdistrict which permits civic, recreation, athletic, and community/public assembly uses within buildings and structures or in open space or open air areas. Nothing in this section shall limit the ability of the public to be charged a fee for use of the amenities described herein, or for the amenities to be provided to the public at no charge, as determined by the provider of such amenity. To accomplish a true mixed use development, land for the development

of the uses described in this subdistrict does not have to be contiguous with other land in the IMU-C subdistrict. The total developable square footage in this subdistrict shall not exceed 60,000 square feet.

- F. IMU Retail (IMU-RET) – A mixed-use subdistrict which permits buildings to be used for the retail or wholesale sale of goods on multiple floors and which also provides space for commercial or residential uses above the ground floor. To accomplish a true mixed use development, land for the development of the uses described in this subdistrict does not have to be contiguous with other land in the IMU-RET subdistrict. The total developable square footage in this subdistrict shall not exceed 350,000 square feet.

**68-\_\_ Definitions.**

Unless otherwise specifically defined herein, the terms used in the IMUPDD section shall have the same meaning as defined in Chapter 68.

**68-\_\_ Subdistrict Regulations.**

A. IMU-I Industrial.

1. Permitted uses:

- a. Office, including professional, information technology, medical, and dental offices.
- b. Research and development uses including laboratories for scientific or industrial research, testing, and development.
- c. Electronic storage facilities such as data centers and facilities for computer server hosting.
- d. Uses commonly referred to as “back office” including information technology, mail and package sorting, and telephone call centers and support.
- e. Manufacturing.
- f. Bank.
- g. Warehouse (including storage and mini-storage warehouse facilities).
- h. Agricultural or nursery use including the retail sale of products produced on the premises.
- i. Child day-care center.
- j. Veterinarian.
- k. Public school.
- l. Private or parochial school, including preschool programs, elementary and secondary schools, colleges and universities, vocational schools and other non-degree-granting schools including self-defense, dance, swimming, gymnastics and similar instruction/programs.
- m. Supply house and wholesale establishment/showroom.
- n. Commercial laundry/dry cleaning establishment.

- o. Printing plant/copy facility.
  - p. Indoor and/or outdoor recreational or fitness/health and beauty use.
  - q. Telecommunication uses and equipment.
  - r. Sale, lease, or rental of heavy construction vehicles, emergency vehicles, unattached trailers and related equipment, provided such vehicle or equipment is not located within the front yard and is set back a minimum of 100 feet from any residential use or zone, and further provided such vehicle or equipment is properly screened from view from such residential use or zone.
  - s. Businesses which involve the outdoor or overnight parking of registered vehicles as an accessory use to a permitted principal use, including rental car/truck agencies as a principal use, provided that all vehicles are set back a minimum distance of 50 feet from any street (except an internal roadway) and 100 feet from any residential use or zone, and further provided such vehicles are properly screened from view from such residential use or zone.
  - t. Indoor/outdoor storage and sale or repair of vehicles.
  - u. Assembly and social recreation hall, excluding those uses which qualify as bar/tavern or nightclubs.
  - v. House of worship.
2. Uses permitted with administrative approval of the Town Clerk shall be as follows:
- By permit issued administratively by the Town Clerk, the outdoor sale and/or display of any variety of tree(s), bush(es) and/or plant(s) used as a symbol of expressing a holiday and/or religiously significant season, including, but not limited to, Christmas trees, wreaths and/or other holiday and/or religiously significant plants or decorations, subject to the provisions set forth in § 68-271.1.
3. Uses permitted by special permit from Planning Board:
- a. Vehicle storage yards not in connection with a primary use, freight facilities, private carting companies, transportation facilities, parcel post companies and similar uses.
  - b. Single retail uses or showrooms which do not fall in the category of shopping center, except a retail store is permitted as-of-right if it is within the industrial building or shares a common wall with it and sells only goods manufactured or produced in the principal industrial building or elsewhere on the property.
  - c. Spray booth when operated as an accessory to a primary permitted use, only when such use is located at least 500 feet from any residential use or zone, school, day-care center, camp, park, playground or playing field.
4. Permitted accessory uses.
- 
- a. The following uses shall be permitted within a building:
    - i. Gym, exercise studio, physical fitness center, dance studio,

- game/recreation center, health and beauty uses.
  - ii. Convenience market.
  - iii. Cafeteria.
  - iv. Restaurant.
  - v. Bank.
  - vi. Drug store or pharmacy.
  - vii. Other customary accessory uses, structures and buildings, provided that such uses are clearly incidental to the principal use and do not include any activity conducted as a stand-alone business.
  - viii. Parking structures, garages, and lots.
- b. Building for storing products, merchandise or vehicles incidental or accessory to the authorized use.
  - c. Other customary accessory uses, structures and buildings, provided that such uses are clearly incidental to the principal use and do not include any activity commonly conducted as a business.
  - d. Accommodations for security guards not to exceed 500 square feet in gross floor area per security guard.
5. Prohibited Uses:
- a. All uses not expressly permitted are prohibited. No accessory building shall be constructed until the construction of the main building has actually been commenced, and no accessory building shall be used unless the main building is completed and used.
  - b. Whenever a use has been authorized by a special permit pursuant to § 68-\_\_\_, no accessory use to that special permit use shall be permitted unless the same shall have been specifically authorized by the Board that authorized the special permit use.
6. Height:
- a. No structure shall be erected to a height in excess of 60 feet.
  - b. The Planning Board may increase the permitted height of a structure up to thirty-five percent (35%).
  - c. Accessory structures shall not exceed 30 feet in height.
  - d. Exceptions. The provision hereof shall not apply to the height of a church or similar place of worship, tower, telecommunications equipment, stack, standpipe, refrigeration or compression coil, monument, chimney, water tank, elevator, mechanical units/housing, or parapet walls. In the event that such structures are within 1 1/2 miles of an established airport, the approval by the Federal Aviation Agency shall be secured and any and all conditions imposed met.
7. Setbacks:
- a. Front yard setbacks from any roadway under the jurisdiction of the New York State Department of Transportation shall be fifteen (15) feet, the entire extent

of which shall be landscaped or green space, except for approved driveways, sidewalks, utilities, and utility easements.

- b. Rear yard setbacks shall be a minimum of ten (10) feet,
- c. Side yard setbacks shall be a combined minimum total of twenty (20) feet, with a minimum ten (10) foot setback on any individual side.
- d. All buildings erected on a corner lot shall also have a front yard on a side street. This front yard shall have a minimum setback of ten (10) feet.
- e. All buildings erected on a through lot shall be set back a minimum of ten (10) feet from the internal roadways.
- f. A minimum distance of ten (10) feet shall be provided between adjacent unconnected buildings. This required minimum may be waived by the Planning Board upon application.
- g. The Planning Board may reduce the setback requirements by up to thirty-five percent (35%).

B. IMU-Services (IMU-S)

1. Permitted uses:
  - a. Commercial and business services.
  - b. Office, including professional, information technology, medical, and dental offices.
  - c. Bank and financial services, including tax preparation.
  - d. Child day-care center.
  - e. Restaurant and minor restaurant.
  - f. Specialty food shop
  - g. Public school.
  - h. Private or parochial school, including preschool programs, elementary and secondary schools, colleges and universities, vocational schools and other non-degree-granting schools including self-defense, dance, swimming, gymnastics and similar instruction/programs.
  - i. Indoor and/or outdoor recreational or fitness/health and beauty use.
  - j. House of worship.
2. Uses permitted with administrative approval of the Town Clerk shall be as follows:

By permit issued administratively by the Town Clerk, the outdoor sale and/or display of any variety of tree(s), bush(es) and/or plant(s) used as a symbol of expressing a holiday and/or religiously significant season, including, but not limited to, Christmas trees, wreaths and/or other holiday and/or religiously significant plants or decorations, subject to the provisions set forth in § 68-271.1.

3. Uses permitted by special permit from Planning Board:
  - a. Vehicle storage yards not in connection with a primary use, transportation facilities, parcel post companies and similar uses.
  - b. Single retail uses which sell only goods manufactured or produced on the property.
4. Permitted accessory uses.
  - a. Customary accessory uses, structures and buildings, provided that such uses are clearly incidental to the principal use and do not include any activity conducted as a stand-alone business.
  - b. Building for storing products, merchandise or vehicles incidental or accessory to the authorized use.
  - c. Accommodations for security guards not to exceed 500 square feet in gross floor area per security guard.
5. Prohibited Uses:
  - a. All uses not expressly permitted are prohibited. No accessory building shall be constructed until the construction of the main building has actually been commenced, and no accessory building shall be used unless the main building is completed and used.
  - b. Whenever a use has been authorized by a special permit pursuant to § 68-\_\_\_, no accessory use to that special permit use shall be permitted unless the same shall have been specifically authorized by the Board that authorized the special permit use.
6. Height:
  - a. No structure shall be erected to a height in excess of 50 feet.
  - b. The Planning Board may increase the permitted height of a structure up to thirty-five percent (35%).
  - c. Accessory structures shall not exceed 30 feet in height.
  - d. Exceptions. The provision hereof shall not apply to the height of a church or similar place of worship, tower, telecommunications equipment, stack, standpipe, refrigeration or compression coil, monument, chimney, water tank, elevator, mechanical units/housing, or parapet walls. In the event that such structures are within 1 1/2 miles of an established airport, the approval by the Federal Aviation Agency shall be secured and any and all conditions imposed met.
7. Setbacks:
  - a. Front yard setbacks from any roadway under the jurisdiction of the New York State Department of Transportation shall be fifteen (15) feet, the entire extent of which shall be landscaped or greenspace, except for approved driveways, sidewalks, utilities, and utility easements.

- b. Rear yard setbacks shall be a minimum of ten (10) feet,
- c. Side yard setbacks shall be a combined minimum total of twenty (20) feet, with a minimum ten (10) foot setback on any individual side.
- d. All buildings erected on a corner lot shall also have a front yard on a side street. This front yard shall have a minimum setback of ten (10) feet.
- e. All buildings erected on a through lot shall be set back a minimum of ten (10) feet from the internal roadways.
- f. A minimum distance of ten (10) feet shall be provided between adjacent unconnected buildings. This required minimum may be waived by the Planning Board upon application.
- g. The Planning Board may reduce the setback requirements by up to thirty-five percent (35%).

### C. IMU-R Residential

#### 1. Definitions:

**WORKFORCE HOUSING** – The initial sales price of each workforce housing unit, and the subsequent resale price of each such unit, shall equal a multiple (2x for a one-bedroom unit and 3x for a two-bedroom unit) of one-hundred (100%) percent of the estimated median family income for the sale year for the Nassau-Suffolk, NY HUD Metro FMR Area as determined by the U.S. Department of Housing and Urban Development (“HUD”). At the time of resale of workforce housing units, the maximum permitted sales price shall be increased to include the actual cost of any permanent capital improvements which have been made to the workforce housing unit and as adjusted for inflation. Using the data year (2012) for illustration purposes only, the initial sale price of the one bedroom workforce units would be \$215,000 (\$107,500 x2) and the initial sale price of the two bedroom workforce units would be \$322,500 (\$107,500 x3). Nothing contained in this IMU-R Residential section should be considered to prohibit any purchaser of a WORKFORCE HOUSING unit or any employer of a purchaser of a WORKFORCE HOUSING unit from receiving the benefit of any local, state, or federal housing grant, down payment assistance, or similar incentive, excluding, however, subsidized payments. If rental units are proposed in this subdistrict, the rent for such units shall also be calculated using the estimated median family income for the rent year for the Nassau-Suffolk, NY HUD Metro FMR Area as determined by HUD. Federal rent subsidies shall not be permitted for these units.

**FULL MARKET VALUE HOUSING** – Any housing unit not identified as WORKFORCE HOUSING shall be available for sale (or rent if proposed) at full market value without restriction on initial sale (or rent) or resale.

#### 2. Permitted uses.

One and two-bedroom residential attached units contained in one or more buildings or as attached townhouses and flats in multiple buildings. Residential units may also be contained in mixed-use buildings.

3. Accessory uses. The following uses shall be permitted within the Residential subdistrict but must be clearly incidental to the principal use:
  - a. Recreation uses, including but not limited to multi-function buildings, swimming pools, tennis courts and similar facilities.
  - b. Park, playground or similar use.
  - c. Maintenance buildings.
  - d. Off-street parking.
  - e. Other customary accessory uses.
4. Height. No structure shall be erected to a height in excess of 60 feet.
5. Density. The maximum density shall not exceed 350 total residential units, 250 units of which shall be WORKFORCE HOUSING and 100 units of which shall be FAIR MARKET VALUE HOUSING.
6. Setbacks.
  - a. Front yard setbacks from any roadway under the jurisdiction of the New York State Department of Transportation shall be fifteen (15) feet, the entire extent of which shall be landscaped or greenspace, except for approved driveways, sidewalks, utilities, and utility easements.
  - b. Rear yard setbacks shall be a minimum of ten (10) feet,
  - c. Side yard setbacks shall be a combined minimum total of twenty (20) feet, with a minimum ten (10) foot setback on any individual side.
  - d. All buildings erected on a corner lot shall also have a front yard on a side street. This front yard shall have a minimum setback of ten (10) feet.
  - e. All buildings erected on a through lot shall be set back a minimum of ten (10) feet from the internal roadways.
  - f. A minimum distance of ten (10) feet shall be provided between adjacent unconnected buildings. This required minimum may be waived by the Planning Board upon application.
  - g. The Planning Board may reduce the setback requirements by up to thirty-five percent (35%).

#### D. IMU-E Entertainment

1. Permitted uses:
  - a. Restaurant and minor restaurant.
  - b. Specialty food shop
  - c. Hotel with or without conference, meeting, and event facilities.
  - d. Multiplex motion picture theater and other public assembly entertainment uses.
  - e. Indoor and/or outdoor recreational or fitness/health and beauty use.

f. House of worship.

2. Uses permitted with administrative approval of the Town Clerk shall be as follows:

By permit issued administratively by the Town Clerk, the outdoor sale and/or display of any variety of tree(s), bush(es) and/or plant(s) used as a symbol of expressing a holiday and/or religiously significant season, including, but not limited to, Christmas trees, wreaths and/or other holiday and/or religiously significant plants or decorations, subject to the provisions set forth in § 68-271.1.

3. Uses permitted by special permit from Planning Board:

Single retail uses which sell only goods manufactured or produced on the property.

4. Permitted accessory uses.

- a. Customary accessory uses, structures and buildings, provided that such uses are clearly incidental to the principal use and do not include any activity conducted as a stand-alone business.
- b. Building for storing products, merchandise or vehicles incidental or accessory to the authorized use.
- c. Accommodations for security guards not to exceed 500 square feet in gross floor area per security guard.
- d. Food and catering services.

5. Prohibited Uses:

- a. All uses not expressly permitted are prohibited. No accessory building shall be constructed until the construction of the main building has actually been commenced, and no accessory building shall be used unless the main building is completed and used.
- b. Whenever a use has been authorized by a special permit pursuant to § 68-\_\_\_, no accessory use to that special permit use shall be permitted unless the same shall have been specifically authorized by the Board that authorized the special permit use.

6. Height:

- a. No structure shall be erected to a height in excess of 60 feet.
- b. The Planning Board may increase the permitted height of a structure up to thirty-five percent (35%).
- c. Accessory structures shall not exceed 30 feet in height.
- d. Exceptions. The provision hereof shall not apply to the height of a church or similar place of worship, tower, telecommunications equipment, stack, standpipe, refrigeration or compression coil, monument, chimney, water tank, elevator, mechanical units/housing, or parapet walls. In the event that such structures are within 1 1/2 miles of an established airport, the approval by the Federal Aviation Agency shall be secured and any and all conditions imposed

met.

7. Setbacks:

- a. Front yard setbacks from any roadway under the jurisdiction of the New York State Department of Transportation shall be fifteen (15) feet, the entire extent of which shall be landscaped or greenspace, except for approved driveways, sidewalks, utilities, and utility easements.
- b. Rear yard setbacks shall be a minimum of ten (10) feet,
- c. Side yard setbacks shall be a combined minimum total of twenty (20) feet, with a minimum ten (10) foot setback on any individual side.
- d. All buildings erected on a corner lot shall also have a front yard on a side street. This front yard shall have a minimum setback of ten (10) feet.
- e. All buildings erected on a through lot shall be set back a minimum of ten (10) feet from the internal roadways.
- f. A minimum distance of ten (10) feet shall be provided between adjacent unconnected buildings. This required minimum may be waived by the Planning Board upon application.
- g. The Planning Board may reduce the setback requirements by up to thirty-five percent (35%).

E. IMU-C Civic

1. Permitted uses:

- a. Outdoor live performance and motion picture venues.
- b. Open space, green space, water recreation.
- c. Outdoor and indoor athletic playing fields and courts.
- d. Senior/youth facilities.
- e. Open-air market.

2. Uses permitted with administrative approval of the Town Clerk shall be as follows:

By permit issued administratively by the Town Clerk, the outdoor sale and/or display of any variety of tree(s), bush(es) and/or plant(s) used as a symbol of expressing a holiday and/or religiously significant season, including, but not limited to, Christmas trees, wreaths and/or other holiday and/or religiously significant plants or decorations, subject to the provisions set forth in § 68-271.1.

3. Permitted accessory uses.

- a. Customary accessory uses, structures and buildings, provided that such uses are clearly incidental to the principal use and do not include any activity conducted as a stand-alone business.
- b. Building for storing products, merchandise or vehicles incidental or accessory to the authorized use.

- c. Accommodations for security guards not to exceed 500 square feet in gross floor area per security guard.
  - d. Food, beverage, and dry goods sales structures.
  - e. Public restrooms.
  - f. Public transportation pick-up/drop-off areas.
  - g. Offices used in connection with any permitted use.
4. Prohibited Uses:
- a. All uses not expressly permitted are prohibited. No accessory building shall be constructed until the construction of the main building has actually been commenced, and no accessory building shall be used unless the main building is completed and used.
  - b. Whenever a use has been authorized by a special permit pursuant to § 68-\_\_\_, no accessory use to that special permit use shall be permitted unless the same shall have been specifically authorized by the Board that authorized the special permit use.
5. Height:
- a. No structure shall be erected to a height in excess of fifty (50) feet.
  - b. The Planning Board may increase the permitted height of a structure up to thirty-five (35%) percent.
  - c. Accessory structures shall not exceed thirty (30) feet in height.
  - d. Exceptions. The provision hereof shall not apply to the height of a church or similar place of worship, tower, telecommunications equipment, stack, standpipe, refrigeration or compression coil, monument, chimney, water tank, elevator, mechanical units/housing, or parapet walls. In the event that such structures are within 1 1/2 miles of an established airport, the approval by the Federal Aviation Agency shall be secured and any and all conditions imposed met.
6. Setbacks:
- a. Front yard setbacks from any roadway under the jurisdiction of the New York State Department of Transportation shall be fifteen (15) feet, the entire extent of which shall be landscaped or greenspace, except for approved driveways, sidewalks, utilities, and utility easements.
  - b. Rear yard setbacks shall be a minimum of ten (10) feet,
  - c. Side yard setbacks shall be a combined minimum total of twenty (20) feet, with a minimum ten (10) foot setback on any individual side.
  - d. All buildings erected on a corner lot shall also have a front yard on a side street. This front yard shall have a minimum setback of ten (10) feet.
  - e. All buildings erected on a through lot shall be set back a minimum of ten (10) feet from the internal roadways.

- f. A minimum distance of ten (10) feet shall be provided between adjacent unconnected buildings. This required minimum may be waived by the Planning Board upon application.
- g. The Planning Board may reduce the setback requirements by up to thirty-five percent (35%).

F. IMU Retail.

- 1. Permitted uses.
  - a. Retail or wholesale sale of goods.
  - b. Minor and fast-food restaurants.
  - c. Convenience markets.
  - d. Pharmacies and drug stores.
  - e. Banks and automated teller machines.
  - f. Personal service establishment.
  - g. Art galleries.
  - h. Assembly or social recreation centers.
  - i. Dry cleaning establishments.
  - j. Artist studios and artistic performance spaces.
  - k. Business service establishments, including printing, office supplies, business machines, computers, photography studios and film development stores.
  - l. Family entertainment venues.
  - m. Professional offices.
  - n. Single-user bulk retail/wholesale establishment.
  - o. Residential units.
  - p. Live/work units for artists and professionals.
  - q. General retail and other uses similar to those permitted as of right within this subdistrict.
- 2. Accessory uses. The following uses shall be permitted within the IMU-R Retail subdistrict:
  - a. Off-street parking, parking garages, and other parking structures.
  - b. Other customary accessory uses.
- 3. Height.
  - a. No structure shall be erected to a height in excess of fifty (50) feet.
  - b. The Planning Board may increase the permitted height of a structure up to thirty-five percent (35%).
- 4. Setbacks.

- a. Front yard setbacks from Sunrise Highway shall be fifteen (15) feet, the majority of which shall be landscaped or green space, except for driveways, sidewalks, parking, utilities, and utility easements.
- b. Rear yard setbacks shall be a minimum of ten (10) feet.
- c. Side yard setbacks shall be a combined minimum total of twenty (20) feet, with a minimum ten (10) foot setback on any individual side.
- d. All buildings erected on a corner lot shall also have a front yard on a side street. This front yard shall have a minimum setback of ten (10) feet.
- e. All buildings erected on a through lot shall be set back a minimum of ten (10) feet from the internal roadways.
- f. A minimum distance of ten (10) feet shall be provided between adjacent unconnected buildings.
- g. The Planning Board may reduce the setback requirements by up to thirty-five percent (35%).

#### **68-\_\_ Parking.**

##### **A. Required Number of Parking Spaces:**

The mixed-use design of the IMUPDD reduces the need for on-site parking for individual uses. Therefore, adherence to the standard on-site parking requirements for the other zoning districts in the Town of Islip as required in Appendix E – Table of Minimum Parking Spaces in the Subdivision and Land Development Regulations, would result in the provision of an overabundance of parking spaces and reduction in land available for open space, public spaces, landscaping and streetscape in the IMUPDD. To avoid such an undesirable condition, the following shall be the minimum number of required parking spaces:

1. IMU-I: 1 parking space per 1,000 square feet of gross floor area.
2. IMU-S: 3.3 parking spaces per 1,000 square feet of gross floor area.
3. IMU-RES: 1.5 parking spaces per dwelling.
4. IMU-E (Theatre): .3 parking spaces per 1 seat.
5. IMU-E (Restaurant): 4 parking spaces per 1,000 square feet of gross floor area.
6. IMU-E (Hotel): 1.5 spaces per guest unit plus 250 additional spaces for employees and invitees.
7. IMU-C (Civic): 2.5 spaces per 1,000 square feet of gross floor area.
8. IMU-RET (Retail): 4 parking spaces per 1,000 square feet of gross leasable area.
9. IMU-RET (Flex): 3.3 parking spaces per 1,000 square feet of gross leasable area.

##### **B. Permitted Parking spaces:**

1. Surface parking included dedicated parking lots and on-street parking.
2. Structured parking no higher than three (3) parking stories above-grade and one

(1) parking story below-grade.

**68-\_\_ Loading**

- A. Single and multi tenant buildings with individual tenants no larger than 30,000 square feet may be serviced from either the front or rear and shall not require dedicated service docks. In addition, common trash facilities may be provided for multi tenant buildings.
- B. Any building with one or more tenant of greater than 30,000 square feet shall include a dedicated loading area for truck delivery and trash removal.
- C. All loading areas shall be screened from public view with a wall, fencing, and/or landscaping.

**68-\_\_ Landscaping.**

- A. Intent: Landscaping and decorative elements for all development areas shall be provided to: 1) enhance the aesthetics of the development, 2) create a pedestrian friendly environment, 3) break up the mass of buildings, 4) soften architectural materials, 5) provide screening of service areas, 6) enhance the streetscape/highway environment, 7) define building and parking area entrances, 8) provide shade and climate control, and 9) provide buffers between subdistricts.
  - 1. A minimum landscape area or green space of fifteen (15) feet shall be maintained along all road frontages. This may include public walkways, sidewalks, parks, and plazas.
  - 2. Detached Walks: Provide a minimum of 1 tree per 40 lineal feet of street frontage between the sidewalk and curb, and an additional 1 tree and 8 shrubs per 40 lineal feet of street frontage within 10 feet outside the sidewalk, internal to the development.
  - 3. Attached Walks: Provide a minimum of 1 tree per 30 lineal feet of street frontage within 15 feet of the edge of the sidewalk and a minimum of 5 shrubs per tree plus perennial flower beds, ground cover or grass lawn is required within 20 feet of the edge of curb.
  - 4. Meandering Sidewalks: Provide a minimum of 1 tree per 30 lineal feet of street frontage and accompany the trees with a variety of shrubs and ground covers. A minimum of 8 shrubs per tree plus perennial flowerbeds, ground cover or grass lawn is required.
  - 5. Sight Triangle: Provide adequate sight lines for an effective sight triangle per the Town Code. Plant roadways with landscape materials that do not interfere with the visibility of the motorist. Plant trees a minimum of 3 feet from the back of curb and choose shrubs that do not exceed mature heights.
  - 6. Parking lots are necessary features of building sites that can, if not designed properly, visually detract from the overall development character. Parking lots within the subdistricts developed under the IMUPDD should be designed to blend with each building site's character using landscape plantings and grading.
    - a. A minimum of 1 tree per 20 parking spaces (average equivalent) is required in all parking lots, to be planted in islands, medians, and perimeter areas

adjacent to lots (excluding streetscape tree plantings). Utilize landscaped islands and medians to improve the definition of circulation patterns, provide shading for paved areas and break up continuous rows of parking. All parking areas shall be landscaped including landscaped islands.

- b. All parking lots over 15,000 square feet shall provide at a minimum that every other double-loaded parking area where possible shall be separated by a minimum landscape division of six feet. Said areas shall be planted with trees at an average of one tree for every 30 feet. The plant spacing herein is for the purpose of determining the number of plants to be provided and not to dictate the design thereof. Clustering of plants in natural patterns is highly encouraged.
7. The coordination of landscape design within a community developed under this code section is essential for creating a consistent, high-quality character. A cohesive design unifies the various buildings and strengthens the cohesiveness of the development. Individual landscape treatments for building sites must complement the roadway landscapes, create distinctive settings for buildings, and help reinforce the design of the open space system and provide a transition for pedestrians. The Planning Board may reduce any of the landscaping requirements specified herein.

**68-\_\_ Exterior Lighting.**

- A. All exterior street and pedestrian lighting fixtures and columns shall be consistent throughout each subdistrict of the IMUPDD.
- B. All lighting shall be positioned or shielded to illuminate the subject parcel only and there shall be no spillover of lighting onto any residential lot.
- C. All lighting adjacent to a buffer zone shall be positioned in such a manner so as to eliminate glare on adjoining properties.

**68-\_\_ Permitted encroachments.**

The following encroachments are hereby permitted:

- A. All lighting, cornices, eaves, gutters, chimneys, awnings, signs, or bay windows projecting not more than forty-eight (48) inches.
- B. One-story open porches and terraces not exceeding five (5) feet in height and projecting not more than ten (10) feet.
- C. One-story enclosed vestibules not greater than twelve (12) feet wide.
- D. Guard booths, flagpoles, identification signs, sculptures, seating, street furniture or gazebos.
- E. Shielded mechanical systems.
- F. Antennas as part of a permitted use, subject to the approval of the Planning Board.

**68-\_\_ Determination by Planning Board.**

Except as otherwise provided herein, all matters referred to the Planning Board in this

Article \_\_\_\_ may be determined without a public hearing, pursuant to Town Law § 274-a, Subdivision 2.

**68-\_\_ Open Development Area.**

Pursuant to Section 280-a of the Town Law, the Town Board hereby declares this zoning district an open development area within the Town, wherein building permits may be issued for the erection of structures to which access is given by right-of-way or easement, upon such conditions or regulations as may be prescribed by the Planning Board at the time of site plan review.

**68-\_\_ Signs**

**Intent.**

This article is intended to control outdoor signs of all types and in all zoning districts by regulating size, location, quantity, quality, content and design to:

- A. Protect the safety of the public.
- B. Enhance the aesthetic environment of the PDD.
- C. Reduce motorist distraction.
- D. Provide for uniform design standards.
- E. Encourage excellence in sign design.
- F. Improve business identification and sign comprehension.
- G. Limit the use of energy in sign design and maintenance.
- H. All signs shall be maintained in a neat, safe and workable condition at all times.

**Permitted Signs.**

- A. Permitted signs may only identify the person, establishment, the principal product and/or service available on the premises which contains the sign.
- B. The following signs are permitted in the IMUPDD:
  - 1. Address: a sign identifying the number and/or name of the occupant of a unit.
  - 2. Public interest: a sign containing a cautionary message, such as "beware of dog" or "no trespassing," or an information message, such as "exit" or "parking."
  - 3. Place / Identity: a sign identifying the development, residential neighborhood, or a public facility.
  - 4. Pylon / Common Tenant: a sign identifying multiple retail tenants in a development. This may include both the developments name as well as the tenants names and/or logos.
  - 5. Institutional: a sign identifying a club, association, school, hospital, church, firehouse, nursing home, care facility, boardinghouse, institution or cemetery.
  - 6. Real estate: a sign indicating exclusively the sale, rental, lease or development of

the premises upon which it stands.

7. Contractor's: a sign identifying the contractor or contractors doing work on the premises or building which contains the sign.
  8. Office: a sign identifying any office building or office use.
  9. Business: a sign identifying an establishment which retails a product or provides a service or entertainment to the general public as distinguished from places, institutions, or offices and which is permitted in all business districts.
  10. Industrial: a sign identifying an establishment which produces or assembles a product or warehouses a product and which is permitted in all industrial districts.
  11. Marquee: a sign identifying motion pictures or events which are subject to frequent change. A marquee sign is only permitted when associated with an entertainment/club, public, or civic facility. Marquees are fixed signs that may be digital in nature and change regularly.
  12. Directory: a sign identifying two or more persons, agencies or establishments, located in a place or location common to all.
  13. Corporate lawn: a sign identifying an office, industrial or business establishment that is designed to integrate into the landscape character of the subject parcel. Such signs shall be architecturally compatible with the building(s) and site and must be located in a landscaped lawn areas.
  14. Directional: a sign located outdoors which guides, instructs or directs viewers to a place or event.
- C. Any sign permitted in this ordinance is allowed to contain noncommercial copy.
- D. This section does not apply to public art or historic/replica signage or environmental graphics applied on building facades or freestanding structures.
- E. For purposes of signage, the area of a sign shall be the area of a rectangle, the sides of which completely enclose the sign, excluding structural supports. All references to height refer to the vertical dimension of this rectangle. The overall height of the sign and structure shall correspond to building heights established in the IMUPDD.

#### **Prohibited Signs.**

Any sign not specifically permitted is prohibited and shall be removed. Prohibited signs include but are not limited to the following:

- A. Any sign which is dangerous or hazardous to public safety by virtue of its maintenance, structure, or projection.
- B. Any sign which obstructs the visibility of drivers or which conflicts with or obstructs a traffic control device for any reason.
- C. Any sign which obstructs a required window or door in such a manner as to prevent free egress or ingress.
- D. Mobile or portable signs.

- E. Flashing (non digital), revolving, moving, sound-producing or animated signs, including signs which have the capability of motion in whole or in part, except signs which display time and/or temperature exclusively.
- F. Commercial billboard which is rented or used to advertise a product, service or establishment which is not the principle product, service or establishment found on the property containing the billboard.
- G. Any sign attached to a tree, telephone pole, portable object or to the face of another sign.
- H. Any sign which uses breakable glass in its construction, except glass used in illumination.
- I. Any sign in any street right-of-way.
- J. Immoral or obscene sign.
- K. Any sign attached to a fence, except by written permission of the Commissioner of Planning and Development.

**Type and Quality of Permitted Signs.**

All signs within the IMUPDD shall be either ground, facial, window, awning or canvas signs.

**A. Pylon / Common Tenant:**

1. A Pylon / Common Tenant sign is permitted to identify multiple retail tenants in a development. This may include the development's name as well as the tenants' names and/or logos.
2. Quantity. One Pylon / Common Tenant sign per project entry is permitted on any parcel containing one or more buildings for any permitted signs, except public interest signs which are permitted as required to safely convey the message. In addition, one Pylon / Common Tenant sign is permitted per one thousand feet of roadway frontage on any road within the jurisdiction of the New York State Department of Transportation. Pylon / Common Tenant may occur as either freestanding structures or on building facades excluding primary building entries.
3. Sign area. The maximum area of a Pylon / Common Tenant sign may not exceed 1750 square feet. Any sign may be double-faced, and only one face shall be used in determining conformity to sign area limitation.
4. Height. The maximum height of a Pylon / Common Tenant sign shall be fifty (50) feet.
5. Setback. The setback of a Pylon / Common Tenant sign is the shortest horizontal measurement from the property line to any part of the sign. A Pylon / Common Tenant sign may be erected within one foot of a street right-of-way only if the sign is certified by a registered architect or engineer to be able to withstand a one-hundred-mile-per-hour wind.

6. Construction. All Pylon / Common Tenant signs, except in residential areas, must be protected from vehicular damage.
  7. Illumination. Illumination of Pylon / Common Tenant signs may be direct, indirect, or internal.
- B. Ground sign: a freestanding sign attached to a structure which is intended and designed only to support the sign and which is embedded in the ground or anchored in concrete.
1. A ground sign is permitted to identify a building or use within a building only if the building which it serves to identify is set back more than 25 feet from the street curb or edge of the street pavement.
  2. Quantity. One ground sign per building is permitted on any parcel containing one or more buildings for any permitted signs, except public interest signs which are permitted as required to safely convey the message. Where two or more persons, agencies or establishments are located in a place or location common to all, such as a shopping center or an office complex, or where separate facilities share a common parking area, one ground sign per building is permitted in a common location. Real estate signs may be attached to an existing sign as the need arises.
  3. Sign area. The maximum area of a ground sign may not exceed 105 square feet plus one foot of sign area for every 10 feet of lot frontage (along one street only, if the lot has multiple frontages). Any sign may be double-faced, and only one face shall be used in determining conformity to sign area limitation.
  4. Height. The maximum height of a ground sign shall be eighteen (18) feet.
  5. Setback. The setback of a ground sign is the shortest horizontal measurement from the property line to any part of the sign. A ground sign shall be set back from any street, right-of-way, property line or required buffer a horizontal distance equal to the height of the sign. A ground sign may be erected within one foot of a street right-of-way only if the sign is certified by a registered architect or engineer to be able to withstand a one-hundred-mile-per-hour wind.
  6. Construction. All ground signs, except in residential areas, must be protected from vehicular damage.
  7. Illumination. Illumination of ground signs may be direct, indirect, or internal.
- C. Facial sign: a sign painted on, applied on or otherwise attached to a wall of a building or storefront and is designed as a unified message.
1. Quantity. Only one facial sign is permitted per face of the storefront or establishment. Where an establishment has additional exterior walls which are visible from the main thoroughfare, each such wall may have one facial sign (secondary), but not more than two such additional facial signs are permitted.
  2. Area. The area of a facial sign shall be the area of a rectangle, the sides of which

completely enclose the sign or letters which are attached to the face of the building. The maximum area of a ground sign may not exceed 3.5 times the width of the individual storefront or establishment.

3. Height. The maximum height of a facial sign shall be eighteen (18) feet.
  4. Illumination. Illumination of ground signs may be direct, indirect, or internal.
  5. Appearance. Facial signs existing in a shopping center shall be of uniform design, including materials and color.
- D. Window sign: a sign entirely contained inside a building and which is comprehensible from the street. Such signs are permitted to allow for the notification of products on the premises, merchandise sales, rental or sale of the premises or special events to be held within the building containing the window sign. Window signs are subject to the area limitations as set forth in the Schedule of Sign Regulations.
- E. Awning sign: a sign painted on a retractable window awning which identifies only the name of the establishment.
- F. Canvas sign: a stationary sign constructed for fire-retardant canvas or similar material on a fire-retardant frame. Canvas signs shall conform to the requirements of facial signs with respect to quantity, area, height, construction and illumination.

In addition, the following conditions shall also apply:

1. Address: Maximum area: six (6) square foot
2. Public interest: Maximum area: twelve (12) square feet.
3. Place/Identity: Maximum area: seven hundred and fifty (750) square feet.  
Maximum Height: forty (40) feet.
4. Real estate: Maximum area: six (6) square feet.
5. Contractor's: Maximum area: twelve (12) square feet.
6. Marquee: Maximum area: five (5) times the width of storefront.
7. Directional: Maximum area: sixty four (64) square feet.



Steven Bellone  
SUFFOLK COUNTY EXECUTIVE  
Department of  
Economic Development and Planning

Joanne Minieri  
Deputy County Executive and Commissioner

Division of Planning  
and Environment

**STAFF REPORT**  
**SECTIONS A14-14 THRU A14-24 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE**

**Applicant:** Carmans River Conservation and Management Plan  
**Municipality:** Town of Brookhaven  
**Location:** Carmans River corridor

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**Received:** 06/04/2013  
**File Number:** BR-11-02.1

**Jurisdiction:** Comprehensive Management Plan/Comprehensive Plan amendment

**SUPPLEMENTARY INFORMATION**

- Within Agricultural District: Yes
- Shoreline Resource/Hazard Consideration: Yes
- Received Health Services Approval: No
- Property Considered for Affordable Housing Criteria: No
- Property has Historical/Archaeological Significance: Yes
- Property Previously Subdivided: No
- Property Previously Reviewed by Planning Commission: No
- Minority or Economic Distressed: No

**NATURE OF SUBDIVISION/ NATURE OF MUNICIPAL ZONING REQUEST**

- Type: Management plan
- Layout: Management Plan study area
- Area of Tract: 230000 Acres

**PROPOSAL DETAILS**

**OVERVIEW** – The Brookhaven Town Board proposes to amend and update the Town Comprehensive Plan to adopt the Carmans River Conservation and Management plan so as to “preserve, protect, and restore the water quality in the surface waters of the Carmans River and the various ecosystems and species that are associated with and dependent upon the Carmans River. The Plan delineates a Management Plan Area comprised of the groundwater and the surface water contributing areas. Recommendations set forth in the plan include the purchase of selected parcels,

rezoning of parcels and areas, and an expansion of the Central Pine Barrens Core Preservation Area.” The overall study area for the Management Plan approximately 23,000 acres and is defined as the 0-25 year long term average precipitation groundwater contributing area as identified and mapped by CDM and shown in its report to the Town of Brookhaven dated January 4, 2011 (Memorandum to Jeffrey Kassner from Camp Dresser & McKee “Baseflow Contributing Area to Carmans River” summarizing the results of groundwater model simulations).

The entire Management Plan study area is roughly an inverted tear-drop shape the most southern end coming to a point at the mouth of the Carmans River around Beaver Dam Road and widening to the west to approximately Mill Road and to the east to Aberdeen Drive. The contribution zone stretches north to approximately NYS Rte. 25 (see attached). Land uses in the proposed Overlay District include low to high density residential commercial, industrial, institutional, agricultural, utilities, vacant land and open space.

The document provides a characterization of the watershed and notes that “available data suggests that the water quality and aquatic habitats in the Carmans River have undergone some degradation over the past several decades. Additionally, there is concern that the development of the remaining vacant land and the redevelopment of developed land in the Carmans River watershed will cause further deterioration of the River’s water quality and aquatic habitats.”

The Plan has a total of 19 recommendations (focused primarily on properties within the 0-2 and 2-5 year groundwater time of travel contributing area to the Carmans River) proposed to be implemented to accomplish the goals of the Plan (see attached). Significant in these recommendations is the proposal to expand the Central Pine Barrens Core Preservation Area; a state managed (via the Central Pine Barrens Joint Planning and Policy Commission) conservation zone as part of the Central Pine Barrens Comprehensive Land Use Plan.

The overall goal of the CRMP is to improve the water quality, natural resources, uses and educational programs within the watershed.

The Carmans River is one of four major river corridors in Suffolk County along with the Connetquot, Nissequogue, and Peconic. The river corridor is contained in three State Critical Environmental Areas; the Middle Island-Yaphank CEA and the Coastal zone Area South-Town of Brookhaven CEA. In addition the northern two thirds portion of the river (to Sunrise Highway) is situated within the Central Pine Barrens CEA and also within the Central Pine Barrens Joint Planning and Policy Commission jurisdiction as promulgated via the Central Pine Barrens Comprehensive Land Use Plan. The northern third is within the Central Suffolk Special Ground water Protection Area (SGPA). The river traverses through Hydro-geologic Zones III and VI. The entire river corridor is either in the “Scenic” or “Recreational” zones of the NYS Wild Scenic and Recreational Rivers Act. In addition to the above fresh and tidal wetland and adjacent areas are regulated by both the State and the Town of Brookhaven.

## **STAFF ANALYSIS**

The recent concept for the Carmans River Conservation and Management Plan was derived from the ill-fated Carmans River Watershed Protection and Management Plan (Carmans River Study Group February 2011). The Plan, as an extension of the long recognized sensitivity of the watershed, essentially proposed to extend the Core Preservation and Compatible Growth areas of the Central Pine Barrens Comprehensive Land Use Plan (Central Pine Barrens Joint Planning and Policy Commission 1996), utilize Transfer of Development Rights (TDR), public purchase/acquisition for significant land parcels in the Core and apply best management practices for development parcels not otherwise preserved. The Watershed Protection and Management Plan was not adopted by the Brookhaven Town Board. But the sentiment to improve and preserve the integrity of

the Carmans River continues as intent of the Town. This “conservation and management plan” is a policy document with recommendations for future town action including up-zoning, acquisition, and expansion of the Central Pine Barrens Core Preservation Area. The policy document will not immediately result in zone changes, acquisitions or expansion of the CPA. These would require separate legislative actions.

The Plan does have a total of 19 recommendations (focused primarily on properties within the 0-2 and 2-5 year [groundwater time of travel] contributing area to the Carmans River) proposed to be implemented to accomplish the goals of the Plan (see attached). Significant in the recommendations is the proposal to expand the Central Pine Barrens Core Preservation Area; a state managed (via the Central Pine Barrens Joint Planning and Policy Commission) conservation zone as part of the Central Pine Barrens Comprehensive Land Use Plan. Integral in the expansion of the CPA (as with any Transfer of Development Right program) is the ability to absorb transferable Pine Barren Credits ( a type of transferable development rights) outside of the CPA into “as of right” receiving (development) areas.

The Town should be mindful that an expansion of the Core Preservation Area (CPA) will require the Town to demonstrate adequate AS-OF-RIGHT receiving areas for PBC’s in a 1:1 and 2.5:1 ratio of receiving area to PBC creation per the Central Pine Barrens Joint Planning and Policy Commission’s Comprehensive Land Use Plan (see Central Pine Barrens Comprehensive Land Use Plan, Volume 1: Policies, Programs and Standards. Central Pine Barrens Joint Planning and Policy Commission, 1996).

The Suffolk County Planning Commission Guidelines on the Environment (Section 4.7, pg. 20) indicate that the general policy goal of the Commission is to “Protect, preserve, and restore critical natural resources to maintain a healthy and diverse ecosystem for present and future generations.” Among the specific policy goals related to the natural environment are “Preserve the region’s natural resources including, but not limited to, groundwater, surface waters, tidal and fresh water wetlands,... protect steep slopes... to reduce erosion and sediment run-off... preserve open space, farmland and environmentally sensitive land through...clustering...(Suffolk County Planning Commission Guidebook, July 2012). It is the belief of the staff that the proposed Carmans River Management Plan embraces the sentiment of the Commission policies.

The Town of Brookhaven appears to be making progress in the development of a watershed plan for the Carmans River. The update of the Town Comprehensive Plan will help to ensure that future development adheres to goals of the community along the Carmans River corridor as reflected in the Plan. The CRCMP is intended to provide guidance for future decisions regarding land use and management of actions and environmental resource protection within the watershed. The development of this conservation and management plan is a critical step in long-term protection of the Towns water resources, which provide critical wildlife habitat, recreational opportunities, and strengthen the local economy.

## **STAFF RECOMMENDATION**

**Approval** with the following comment:

1. The Town should be mindful that an expansion of the Core Preservation Area (CPA) will require the Town to demonstrate adequate AS-OF-RIGHT receiving areas for PBC’s in a 1:1 and 2.5:1 ratio of receiving area to PBC creation per the Central Pine Barrens Joint Planning and Policy Commission’s Comprehensive Land Use Plan (see Central Pine Barrens Comprehensive Land Use Plan, Volume 1: Policies, Programs and Standards, section 6.5.2 and 6.5.2.1: Central Pine Barrens Joint Planning and Policy Commission; 1996).

## EXECUTIVE SUMMARY

The Carmans River, together with the Connetquot, Nissequoque, and Peconic rivers, is one of Long Island's four major river systems and together with the Peconic River is one of the two major river systems that flow through the Central Pine Barrens Region of Long Island. The average annual flow of the Carmans River is 15.9 million gallons per day based on data from the United States Geological Survey (USGS) gaging station located one mile south of the Long Island Expressway. It is estimated that 94 percent of the flow of the Carmans River originates from groundwater (CDM 2011a), which means the groundwater contributing area for the River is integral to the health and quality of the River.

Available data suggests that the water quality and aquatic habitats in the Carmans River have undergone some degradation over the past several decades. Additionally, there is concern that the development of the remaining vacant land and the redevelopment of developed land in the Carmans River watershed will cause further deterioration of the River's water quality and aquatic habitats. For these reasons, the Town created the Carmans River Study Group to prepare a Management Plan that would provide a suite of recommendations to restore and preserve the water quality and habitats of the Carmans River. The goals of the Carmans River Conservation and Management Plan ("The Plan") are:

1. Environmentally sensitive lands that are critical to the ecological health and water quality of the Carmans River, or are significant habitats within the Carmans River watershed, should be protected and preserved.
2. There should be no further degradation of water quality in the Carmans River, and a concerted effort should be made to reduce the concentrations of water quality contaminants from their present levels.
3. Any new development or redevelopment in the Carmans River watershed should not adversely impact water quality in the Carmans River or the key ecological communities in the Carmans River watershed.

4. Degraded habitats should be restored, stormwater discharges mitigated, and the abundance of invasive species significantly reduced and, if possible, eliminated.
5. Environmental stewardship, outreach and education should be promoted by the Town of Brookhaven.

Because the quality of groundwater determines the quality of the water in the Carmans River, the groundwater contributing area for the Carmans River was mapped and made part of the Management Plan Area. In order to provide a greater comprehensive examination of the area, the area of the 100 year groundwater contributing area was used as the base Study Area. In addition, an area north of the groundwater contributing area was added to the Management Plan Area as it is part of the Carmans River system. The Study Area encompasses approximately 23,000 acres.

The Plan has a total of 19 recommendations, which, when implemented, will accomplish the goals set forth by the Carmans River Study Group. The recommendations fall into the following categories:

1. Carmans River Management Plan Area
2. Pine Barrens Expansion Area
3. Proposed open space and farmland development rights acquisitions
4. Proposed zoning actions in the Management Plan Area
5. New York State Wild and Scenic Recreational River (WSR) Act
6. Watershed Protection Improvement District
7. Protection of natural resources
8. Stormwater and flooding
9. Sanitary systems and sewage treatment plants
10. Water quality goal for the Carmans River
11. Water quality monitoring program
12. Biological inventories and monitoring
13. Invasive species
14. Restoration of degraded properties
15. Surface and groundwater remediation

16. Mitigate barriers to fish migration
17. Public education and outreach
18. Agricultural and golf course management
19. Carmans River Management Plan Performance Committee

A key component of the Management Plan is adding select properties within the Management Plan Area to the Central Pine Barrens Core Preservation Area (“Core Expansion Area”) and Central Pine Barrens Compatible Growth Area. This would prevent these properties from being developed by providing property owners with the opportunity to obtain Pine Barrens Credits that can be redeemed for increased density and/or intensity of development at sites that have been deemed eligible to receive such development pursuant to the Pine Barrens Plan. A vigorous Town, New York State, and Suffolk County acquisition program for key properties is also recommended.

The New York State Legislature is presently in the process of amending the 1993 Long Island Pine Barrens Act. The legislation will add certain properties in the Management Plan Area to the Pine Barrens Core Preservation Area and expand the boundaries of the Central Pine Barrens to include certain properties in the Management Plan Area to the Pine Barrens Compatible Growth Area. If enacted and signed by the Governor, the Central Pine Barrens Joint Planning and Policy Commission should also amend the 1995 Central Pine Barrens Comprehensive Land Use Plan.

## **CHAPTER 5: MANAGEMENT PLAN RECOMMENDATIONS**

### **Carmans River Management Plan Recommendations**

These recommendations were developed to meet the goals of the *Carmans River Conservation and Management Plan*. Some of the recommendations can be implemented solely by the Town of Brookhaven while others apply to or involve other agencies which may have or share jurisdiction over the implementation of the recommendation. In addition, some of the recommendations may require Brookhaven Town funding and hence their implementation is subject to the availability of funds and possible approval by the Town Board. It should be noted that the recommendations also reflect the amendment to the Pine Barrens Act (Appendix A).

The recommendations for the Management Plan of *The Carmans River Conservation and Management Plan* are generally focused on the most critical 0-2 and 2-5 year groundwater contributing area as shown in Figure 4a.

#### **1. Carmans River Management Plan Area.**

The Carmans River Management Plan Area encompasses that area within the 0 to 2 and 2 to 5 year groundwater time of travel contributing area to the Carmans River, areas that may otherwise affect the environmental health and quality of the Carmans River (water quality, habitats, biodiversity, and species abundance and distribution), and the aquatic, riparian and terrestrial communities that comprise the ecosystem of the Carmans River and as shown on Figure 4a of this Plan.

#### RECOMMENDATION:

A. Prepare, using tax map parcels, roadways, landmarks or other information as applicable, a map and written description of the boundaries of the Management Plan Area that reflects as closely as possible the Management Plan Area boundaries shown in Figure 4a.

## **2. Pine Barrens Expansion Area.**

In order to provide the greatest protection to the Carmans River and its contributing areas, it is recommended that the Pine Barrens Protection Act be used as a tool for the preservation of lands within the 0 to 2 and 2 to 5 year contributing areas of the watershed. Expansion of the Central Pine Barrens boundaries, south of the Long Island Expressway, between Yaphank Avenue and William Floyd Parkway, offers the standards and guidelines of the Compatible Growth Area as provided by the Act to those properties within the Management Plan area. The standards and guidelines provided by the Central Pine Barrens offers a greater protection of the Carmans River watershed and Management Plan Area including clearing limitations, fertilizer dependant limitations, preservation of steep slopes and an overall reduction in nitrate concentrations. Expansion of the Core Preservation Area will ensure that the vacant properties within the Management Plan Area will be preserved.

### **RECOMMENDATION:**

A. The properties that meet the following criteria are proposed to be added to the Compatible Growth Area of the Central Pine Barrens and are collectively referred to hereafter as the "Pine Barrens Expansion Area":

1. Properties within the 0 to 2 and 2 to 5 year groundwater time of travel contributing area south of the Long Island Expressway, State Route 495, between Yaphank Avenue and William Floyd Parkway.
2. The land area includes approximately 2,215 acres of land consisting of 2,942 parcels of land.
3. An exemption to the boundary expansion includes the project known as RB Industrial Park, showing a latest revision date of 01-06-09. This approved and filed subdivision and site plan was designed to comply with the current Pine Barrens Standards including: dedicated natural areas, clustering and limitations on fertilized landscaped areas.

B. Parcels that meet the criteria for inclusion in the Compatible Growth Expansion Area and are recommended for inclusion in the Central Pine Barrens are shown in Figure 27 and the list of the specific tax map numbers for the parcels to be added to the Central Pine Barrens is provided in Appendix B. A metes and bounds description of the Pine Barrens Expansion Area has been prepared (Appendix C) is subject to approval by the New York State Legislature and the Central Pine Barrens Joint Planning and Policy Commission.

C. Properties that meet the following criteria are proposed to be added to the Core Preservation Area of the Central Pine Barrens and are collectively referred to hereafter as the “Core Expansion Area”:

1. Properties within the 0 to 2 and 2 to 5 year groundwater time of travel contributing area, except for those in areas of the Management Plan Area that are predominately developed.
2. Publicly owned properties that have been acquired since the Core Preservation Area boundaries were originally established in 1993.
3. The land area includes approximately 1,660 acres of land and includes 587 parcels of land.
4. An exemption to the boundary expansion includes the parcel known as the Dorade Sewage Treatment Plant.

D. Parcels that meet the criteria for inclusion in the Core Preservation Expansion Area and are recommended for inclusion in the Core Preservation Expansion Area are shown in Figure 27 and the list of the specific tax map numbers for the parcels to be added to the Central Pine Barrens Core Preservation Area is provided in Appendix B. A metes and bounds description of the Core Preservation Expansion Area has been prepared (Appendix C) is subject to approval by the New York State Legislature and the Central Pine Barrens Joint Planning and Policy Commission.

E. Pine Barrens Credits should be allocated to qualifying privately owned properties in the Core Preservation Expansion Area based on existing zoning as of the date of the Management Plan's adoption.

1. It is estimated that approximately 141 credits would be made available based on the current zoning of the parcels, the size of the parcels and the location (on an improved road) of the parcels.
2. The exact number of Pine Barrens Credits is subject to the review and the issuance of credit certificates by the Pine Barrens Credit Clearing House.

F. The Town of Brookhaven has requested that the New York State Legislature should amend the Long Island Pine Barrens Protection Act of 1993 (and as subsequently amended) to add those parcels within the proposed Central Pine Barrens Expansion Area (CGA) and Core Preservation Expansion Area to the Central Pine Barrens. (Appendix B)

G. The Town of Brookhaven should request the Pine Barrens Commission to amend the Central Pine Barrens Comprehensive Land Use Plan to include these new lands within the Central Pine Barrens and to incorporate the recommendations contained in the Management Plan.

H. The Town of Brookhaven has taken steps to increase the redemption of Pine Barrens Credits (PBC) through land use legislation including the adoption of the MF Zoning category, which mandates the redemption of PBC based on existing zoning yield of the parcels requested for a change in zoning to MF Zoning District. The Town should continue to develop innovative ways to redeem PBC's in accordance with the recommendations contained in the Central Pine Barrens Comprehensive Land Use Plan 1995.

### **3. Proposed Open Space and Farmland Development Rights Acquisitions.**

The Town of Brookhaven recognizes of the importance acquiring and preserving properties within the Management Plan Area for open space and this Management Plan identifies specific sites for open space preservation. Past preservation efforts have shown significant open space acquisitions within this study area, particularly within the Central Pine Barrens. There are still significant open space areas throughout the study area, which do not have the protections of permanent preservation.

The Town has purchased, alone and in conjunction with Suffolk County and New York State, several properties in the study area. In addition to these efforts, Suffolk County and New York State have also actively achieved acquisition and preservation of properties throughout the study area. Private, non-profit conservation organizations such as the Nature Conservancy and the Post Morrow Foundation, have also acquired open space areas in the study area. Further cooperation between the municipalities as well as private, non-profit organizations, to acquire additional open space in this study area is recommended.

In addition to acquisition, the aggressive use of clustering and other techniques can also achieve a permanent preservation of open space. The use of clustering should continue to be used as a tool in order to preserve these sensitive lands or to create, connect, or complete greenbelts. This plan identifies parcels proposed for open space acquisition. Please see Figure 28.

#### **RECOMMENDATION:**

A. Vacant, natural and undisturbed parcels have the highest priority for public acquisition. Consideration should also be given to parcels that may connect to or complete a greenbelt. There is also a need to acquire parcels that may already be disturbed. These parcels are given a lower priority for public acquisition see Figure 28.

B. The Town and Suffolk County should actively seek to acquire the Farmland Development Rights for the following properties:

1. Szuster Farm
2. Yaphank Avenue Sod Farm

All Farmland Development Rights purchases shall be from willing sellers.

C. Implement other diversified means by which to acquire and protect open space from development in perpetuity including, but not limited to conservation easements, clustering, donating or selling the land to accredited land trusts or other appropriate public agencies, and purchasing and retiring Pine Barrens Credits from a dedicated fund such as the Joseph Macchia Environmental Reserve Fund.

D. Steps to preserve open space through the Joseph Macchia Environmental Reserve Fund have been undertaken by the adopted land use legislation known as the Land Use Intensification Mitigation fee. This legislation offers a contribution to the Macchia Fund for those applications for change of zone that apply for a more restrictive land use that are approved by the Town Board.

E. The Town may also seek other sources of funding to acquire open space, such as bonds.

#### **4. Proposed Zoning Actions in the Management Plan Area**

It is well established and documented in this Plan and many other plans that zoning plays a critical role in controlling development, density and population which results in an overall reduction in nitrogen loading to the groundwater and surface waters. In implementing its Comprehensive Land use Plan, the Town has taken great strides in establishing zoning patterns adjacent to and within

stream corridors, including the Carmans River Management Area. The Past Plans section of this Management Plan finds that where residential development cannot be avoided, large lot development should be required. Population density can be minimize by encouraging large lot development, where possible, to protect the groundwater from future pollutant loadings. This Management Plan provides specific zoning recommendations that are provided in Figure 29. Adoption of the large lot rezoning will help to achieve the 2.5mg/l nitrate standard recommended for new development.

RECOMMENDATION:

A. Undertake a comprehensive zoning initiative for the Carmans River Management Area as recommended in Figure 29.

B. In order to achieve the 2.5mg/l nitrate standard recommended for new development, re-zone all residentially zoned parcels within the 0 to 5 year groundwater contributing area to a minimum 2-acre residential zoning (A Residential 2) (Figure 29).

1. Approximately 12,000 acres (2142 parcels of land) proposed to be rezoned to A Residential 2.

C. Re-zoning all residentially zoned publicly owned parcels within the Study Area to 5 acre residential (A Residential 5) unless the parcel is already zoned 10 acre residential (A Residential 10), in which case the 10 acre residential zoning should remain (Figure 29).

1. Approximately 1,500 acres (137 parcels of land) proposed to be rezoned to A-5.
2. Approximately 600 acres (194 parcels of land) proposed to be rezoned to A-10.

D. The Town of Brookhaven Board of Zoning Appeals, to the extent permitted by Town Law Section 267-b, should evaluate all requests for variances with respect to the goals and recommendations of this Management Plan.

E. Settlements and stipulations deriving from litigation shall not be subject to the provisions and recommendations contained herein.

#### **5. New York State Wild and Scenic Recreational River (WSR) Act.**

The New York State Wild and Scenic Recreational River Act (WSR) provides standards for the Scenic and Recreational portions of the Carmans River Corridor. The requirements of the WSR have long been upheld and implemented by the Town of Brookhaven and New York State Department of Environmental Conservation. However as required by the Act, a management plan has never been prepared for this river. Therefore the following recommendations are offered:

#### RECOMMENDATION:

A. New York State should consider this *Carmans River Conservation and Management Plan* as the management plan for the Carmans River Watershed in accordance with the provisions of The New York State Wild and Scenic Recreational River (WSR) Act regulations (6 NYCRR Part 666).

B. The Town should continue to take concrete, assertive steps to ensure compliance with existing WSR regulations already in place, including zoning and land use restrictions.

C. Identify additional measures, if necessary, to further strengthen the implementation and application of the Wild, Scenic and Recreational Rivers Act regulations, including the need to expand the WSR boundaries to further protect the River.

D. Based on the existing land use and zoning patterns found in the Management Plan Area, it does not appear that the existing land uses meet the qualifications found under the Community Rivers part of the WSR. Therefore the Town should not petition New York State to re-classify the Carmans River under the “Community River” designation.

## **6. Watershed Protection Improvement District**

In April, 2011, New York State amended New York State Town Law by adding Watershed Protection Improvement District to the list of improvement districts a township may enact. The Act states that: after a Watershed Protection Improvement District has been established, the Town Board may take such action as may be required to adopt plans and specifications and enter into a contract or contracts, or take such other actions as may be required, for the protection and restoration of groundwater, surface waters, and drinking water quality as it may deem to be necessary or desirable, including but not limited to stormwater treatment projects and wetland construction. As a result this Management Plan recommends the following:

### RECOMMENDATION:

A. Consider the creation of a Watershed Protection Improvement District consistent with the boundaries of the Management Plan Area. The creation of a district will allow for improvements to the watershed and assist the Town in remediation projects such as stormwater treatment.

## **7. Protection of natural resources**

The Management Plan Area contains a large quantity of environmentally-sensitive lands, including wetlands, and geological features such as kettle holes,

moraines, steep slopes and glacial erratic. There may also contain rare and endangered or otherwise important wildlife and vegetation species and significant ecosystems and habitats.

These lands are a positive aspect of the quality of life for the communities in this Management Plan Area. Efforts have been undertaken to preserve these sensitive lands through public acquisition as well as acquisition by organizations such as the Nature Conservancy and the Post Morrow Foundation. The majority of the environmentally sensitive lands, particularly those along the Carmans River, are presently under the control of the Town of Brookhaven, Suffolk County, New York State and the United States of America.

In order to further protect the natural resources of the Management Plan Area, the following is recommended:

RECOMMENDATION:

A. Amend Chapter 81 of the Brookhaven Town Code (Wetlands and Waterways) to prohibit new construction of primary and accessory structures, clearing, and fertilization within 20 feet of the landward edge of wetlands and surface waters in the Management Plan Area.

B. The Town, Suffolk County and New York State should, subject to further approvals and funding, seek to construct infrastructure to reduce mortality of wildlife from road kill in the Management Plan Area.

C. The Town, Suffolk County and New York State should seek the routing of trails and other enhancements on public lands within its control in the Management Plan Area to avoid situations that cause erosion, runoff and siltation.

D. Prohibit the use of pesticides on any Town owned property within the Management Plan Area, except in instances of protecting the public health

and/or compulsory directives and/or mandates. In addition, the Town should offer this same recommendation to Suffolk County and New York State with respects to their land holdings within the Management Area.

## **8. Stormwater and flooding**

The Town has mapped recharge basins and stormwater discharges under Town jurisdiction in the Management Plan Area. Large portions of the Management Plan Area have not been developed or lack high density development. Only 21 direct stormwater discharges (pipes and road drainage) into the river have been identified (Table 3 and Figure 17). The following recommendations should be implemented with the goal to reduce adverse stormwater impacts to the Carmans River:

### RECOMMENDATION:

A. Implementation of public education and outreach on stormwater impacts. The Town should publish information that describes common actions likely to adversely impact groundwater and surface water from the discharge of pollutants through storm water systems. Alternatives to the above-mentioned actions resulting in lesser potential adverse environmental impact should be promoted and encouraged.

B. The completion of the mapping of Suffolk County and New York State Department of Transportation stormwater infrastructure maintained by those agencies that may impact the Carmans River and the development of plans and strategies to mitigate the stormwater discharges in the Management Plan Area.

C. Development projects must comply with Stormwater Pollution Prevention guidelines and requirements.

D. The reduction and/or elimination of illicit stormwater discharge from existing development should be encouraged with the application of Best Management Practices.

E. Petition Suffolk County and New York State officials to adopt an accelerated schedule to upgrade and maintain catch basins in the Management Plan Area located on Suffolk County and New York State roadways in key areas that potentially impact the Carmans River.

F. Town, Suffolk County and New York State adoption of an accelerated schedule to install catch basins and other drainage infrastructure to mitigate adverse environmental impacts due to the stormwater discharges in the Management Plan Area.

G. Undertake the following measures to resolve flooding concerns:

1. Undertake an engineering study for the amelioration of flooding along Mill Road and Middle Island Road.
2. The area generating run-off to Middle Island Road and Mill Road should be mapped and the water table elevation in the area surrounding Middle Island Road and Mill road should be mapped and monitored.
3. Opportunities for redirecting and/or treating run-off on Middle Island Road and Mill Road should be identified and pursued but in no case should stormwater be directly discharged into the Carmans River.

## **9. Sanitary Systems, Sewage Treatment Plants and Nitrate-nitrogen standards for projects**

Although it is recognized that sanitary systems and sewage treatment

facilities are beyond the control of the Town, the Town has developed a series of recommendations that should be considered by Suffolk County.

RECOMMENDATION:

A. Suffolk County Department of Health Services and the Suffolk County Legislature should examine Article 6 of the Suffolk County Department of Health Services Code for possible updates and to allow for new and innovative sanitary solutions which decrease nitrate-nitrogen standard for residential and commercial development. The following should be considered by Suffolk County:

1. New sanitary systems and replacement systems for failed sanitary systems should take advantage of improved technologies including BESST and Nitrex as well as alternative systems not currently permitted by the Suffolk County Department of Health Services that will significantly reduce the effluent nitrogen concentration produced compared to conventional sanitary systems.
2. The wastewater treatment infrastructure at existing sewage treatment plants (STPs) should be updated and new STPs should be designed to provide for enhanced nitrogen removal.
3. Upgrades to existing on-site sanitary systems and new on-site sanitary systems should provide increased denitrification of wastewater compared to conventional and existing sanitary systems.

B. Encourage and support the Suffolk County Department of Health Services in the development and implementation of improved and alternative on-site sanitary systems and sewage treatment plants.

C. New York State Town Law Article 12 (District and Special Improvements) should be amended to allow for the creation of “groundwater quality protection districts” within developed and groundwater sensitive areas in the Management Plan Area for the purpose of incentivizing and financing upgrades to existing

residential sanitary systems that will reduce their nitrogen loading to groundwater. The Town of Brookhaven should seek to establish groundwater quality protection districts once given the ability to do so.

E. The expansion of the Central Pine Barrens Compatible Growth Area as recommended by this plan and the application of the Standards and Guidelines for development within the Compatible Growth Area should limit the amount of fertilized dependant vegetation and thereby reduce potential nitrate loading to the groundwater.

D. Develop and publicize information that describes the environmental benefits of natural and organic methods of fertilization for homeowners within the Management Plan Area and the detrimental effects of fertilizers on the Carmans River.

E. The Central Pine Barrens Comprehensive Land Use Plan and the Town's Pine Barrens Zoning Code should be amended to require that the nitrate-nitrogen standard should be 2.5 mg/l of nitrate at the property lines for projects that meet the criteria for Development of Regional Significance (DRS) designation as defined in the Central Pine Barrens Comprehensive Land Use Plan.

## **10. Water quality goal for the Carmans River**

As discussed in this Carmans River Conservation and Management Plan, the surface water quality in the freshwater section of the Carmans River is determined by the quality of groundwater that discharges into the surface water, atmospheric deposition of contaminants, runoff of contaminants into surface water, and biological activity that can remove contaminants. The purpose of this Carmans River Conservation and Management Plan is to ensure non-degradation of the current water quality of the Carmans River. The following

recommendations are intended to achieve this goal.

RECOMMENDATION:

A. To assess water quality in the Carmans River, the Suffolk County Health Department and New York State Department of Environmental Conservation should continue to monitor water quality at the following locations (segments) on the Carmans River (the stations are Suffolk County Health Department and New York State Department of Environmental Conservation stations):

1. 240-220 north side Bartlett Road at culvert
2. 240- 170 Mill Road at Upper Lake spillway
3. 240-135 Main Street and Long Island Avenue at Lower Lake spillway
4. 240-30 North side Victory Avenue at Hards Lake spillway
5. NYS DEC CARM-02
6. NYS DEC CARM-03

B. Using the current water quality in the Carmans River as the baseline, the water quality goal for the Carman River should be non-degradation.

C. Water quality should be monitored at least once every two months and monthly during the warm season (May - August) with a minimum of nine (9) sampling events per year. Upon the water quality data becoming available, it should be analyzed using appropriate statistical methodologies and taking into account seasonal variability and stormwater events to determine a final restoration water quality goal for each of the Carmans River segments.

C. If the water quality in any Carmans River segment exceeds the mean concentration of available water quality data for that segment, taking into account seasonal variation, by more than 20%, a study should immediately be commenced to identify the possible cause(s) of the exceedence and the remedial actions whose implementation should be a priority.

D. Upon the adoption of a numeric water quality standard applicable to the Carmans River by the New York State Department of Environmental Conservation or the United States Environmental Protection Agency, the Town should adopt this numeric water quality standard.

E. If upon statistical analysis of multiple water samples, the water quality in the Carmans River is found to exceed the water quality restoration standard that is the New York State Department of Environmental Conservation or the United States Environmental Protection Agency numeric standard, the Town should work with NYS DEC and EPA to prepare a Total Maximum Density Load (TMDL) type of evaluation that will:

1. Determine the nitrate-nitrogen load that is necessary to meet the restoration goal (loading capacity).
2. Identify the nitrate-nitrogen sources and estimate their contributions of nitrate.
3. Analyze the current nitrate-nitrogen load and determine the needed reductions.
4. Allocate the allowable nitrate-nitrogen load among the different contributors in a manner that the restoration water quality goal is achieved.

## **11. Water quality monitoring program**

The Town along with the New York State Department of Environmental Conservation and/or the United States Environmental Protection Agency should cooperate with other agencies and academic institutions to develop a comprehensive water quality monitoring program.

RECOMMENDATION:

A. Cooperate with other agencies and academic institutions to develop a comprehensive water quality monitoring program.

B. The monitoring program should be designed to determine if the protective measures in the Management Plan are protecting water quality. Evaluation of the effectiveness of the Management Plan should be conducted within five (5) years of the Plan's adoption and every three (3) years thereafter.

C. The monitoring of the Carmans River should follow the protocols of the USGS National Water Quality Assessment Program and the New York State Department of Environmental Conservation.

D. Continuous monitoring stations with telemetric capabilities should be established to measure water level, temperature conductivity, pH, turbidity and dissolved oxygen.

E. Semi-annual monitoring of the water quality of an array of well-distributed shallow groundwater wells should be undertaken.

F. Surface water, bottom water and pore water near the sediment-water interface should be sampled quarterly along a transect of stations along the Carmans River's axis for water quality parameters consistent with past monitoring done by the Suffolk County Department of Health Services.

G. The USGS 3-D GIS framework for groundwater hydrogeology should be maintained and a data base of publicly available water quality data should be established.

## **12. Biological inventories and monitoring**

The Town of Brookhaven along with the New York State Department of Environmental Conservation and/or the United States Environmental Protection Agency should cooperate with other agencies and academic institutions to develop a comprehensive biological inventory and monitoring program.

### RECOMMENDATION:

A. A comprehensive ecological inventory of the aquatic, riparian and terrestrial biological resources of the Carmans River and the entire Management Plan Area should be undertaken.

B. Inventories of the aquatic, riparian and terrestrial biological resources of the Carmans River and the entire Management Plan Area should be periodically updated.

C. A monitoring program for invasive species should be developed and implemented.

D. All monitoring of the Carmans River, lakes, ponds and associated wetlands within the Management Plan Area should follow the protocols of the Foundation for Ecological Research in the Northeast.

E. Partner with Suffolk County and New York State to implement a comprehensive and cost-effective biological monitoring program that can be used to assess the environmental quality of the Management Plan Area and the effectiveness of the Management Plan.

## **13. Invasive species**

In April, 2011, the Suffolk County Department of Environment and Energy

prepared (NP&V) a Feasibility Study to Eradicate Aquatic Invasive/Nuisance Species In Canaan Lake, North Patchogue and Upper and Lower Lakes, Yaphank. These lakes were assessed to determine the current extent of invasive aquatic weeds and to determine the feasibility of various control options that could be implemented to allow for the long-term control of these nuisance species.

RECOMMENDATION:

A. The recommendations and the implementation of the Feasibility Study to Eradicate Aquatic Invasive/Nuisance Species In Canaan Lake, North Patchogue and Upper and Lower Lakes, Yaphank is currently underway. The Town should continue to implement the recommendations of the feasibility study and the remediation of Upper and Lower Lakes.

B. Based on the recommendations of the Feasibility Study, develop and implement a long term strategy to address invasive aquatic species within the Upper and Lower lakes.

**14. Restoration of degraded properties**

Although degraded properties were not specifically identified in this Management Plan, the following general recommendations should be considered.

RECOMMENDATION:

A. Work cooperatively with Suffolk County and New York State to identify degraded natural sites on public lands and to develop/implement site specific restoration plans.

B. Implement measure to restore Town owned public lands that have been

degraded by ATV use and/or dumping measures to restore these lands and to deter these and other illegal uses.

C. A river crossing should be considered in the Carmans River Headwaters Suffolk County Nature Preserve and at other suitable locations that will provide connectivity without harming the environment.

D. Continue investigating private properties with alleged violations of the Town Code and other local and state laws that may be negatively impacting groundwater quality and surface water quality in the Management Plan Area and the natural resources of the Carmans River.

#### **15. Surface and groundwater remediation**

The following recommendations present the programs and practices affecting the watershed, including those focusing on point and non-point source pollution management and watershed ecology.

##### RECOMMENDATION:

A. Contaminated groundwater from known point sources should be remediated consistent with United States Environmental Protection Agency, New York State Department of Environmental Conservation and Suffolk County Department of Health Services requirements by the party responsible for the contamination.

B. Sources and causes of the degradation of surface water and groundwater quality should be remediated consistent with United States Environmental Protection Agency, New York State Department of Environmental Conservation and Suffolk County Department of Health Services requirements by the party responsible for the contamination.

## 19. Management Plan Implementation

### RECOMMENDATION:

- A. Carmans River Management Plan should be evaluated by the Town annually to determine its effectiveness in meeting its goals.
  
- B. Take the lead in coordinating implementation of this Management Plan's recommendations and implementation with other agencies and academic institutions.

## 20. Carmans River Management Plan Performance Committee

### RECOMMENDATION:

- A. Establish a Carmans River Management Plan Performance Committee which will perform quarterly assessments and produce an annual progress report on the effectiveness of the implementation of *Carmans River Conservation and Management Plan*.
  
- B. Quarterly assessments and the annual progress report, at a minimum, shall examine and evaluate the effectiveness of the following parameters:
  - 1. Preservation
    - a. The acquisition status of priority parcels, the acreage acquired.
    - b. The number Pine Barrens Credits redeemed from the Central Pine Barrens Core Expansion Area.
    - c. The implementation of mitigation measures.
    - d. Progress in improving the water quality of the Carmans River and achieving the targeted water quality goals.
  
- C. The Performance Committee should provide an annual report to the Town

## **16. Mitigate barriers to fish migration**

The Town, County of Suffolk and United States Geological Survey should work together to consider the evaluation of the following barriers to fish migration, and where appropriate, mitigate subject to all permit requirements, deed restrictions, and funding:

### RECOMMENDATION:

#### A. Hards Lake dam, 2.84 miles from the mouth of the river:

1. Ensure that the installation of the fish passage will not prevent American Eels from climbing over the dam which could occur if the flow characteristics were changed and the dam face is not continually wet.
2. Monitor the existing fish passage to determine whether or not maintenance is required and to ensure it adequately passes fish.

#### B. C-Gate dam, 3.88 miles from the mouth of the river:

1. The dam should be evaluated to determine if alteration to the spillway is required.
2. If feasible, the dam should be partially or wholly removed.
3. If not feasible, repairs to the dam should be considered.

#### C. United States Geological Survey Gauging Station, 4.73 miles above the mouth of the river:

1. The weir should be modified to facilitate fish passage in a manner that allows the continued integrity and functioning of the USGS gauging station.
2. Consideration should be given to the installation of a manufactured fish passage to allow river herring to pass the weir.

D. Lower Lake dam, 5.24 miles from the mouth of the river:

1. The dam's structural integrity should be evaluated. If reconstruction of the dam is recommended, the installation of a manufactured fish passage should be considered

E. Upper Lake dam, 6 miles above the mouth of the river:

1. The dam should be upgraded and a manufactured fish passage installed.

F. County earthen dam adjacent to south end of Szuster Farm property, 7.3 miles from the mouth of the river:

1. The dam should be removed subject to any deed restrictions that might be in effect on the property.

G. Cathedral Pines County Park entrance road culverts, 7.7 miles from the mouth of the river:

1. The functioning of the existing culverts should be evaluated and if replacement is recommended, the replacement should facilitate fish passage.

## **17. Public education and outreach**

An essential component of this Management Plan is the education of the general public. The following recommendations should be considered:

### RECOMMENDATION:

A. Develop and publicize information that describes the environmental, ecological and historical importance and significance of the Carmans River.

B. Undertake an educational program aimed at residents who live in the

Management Plan Area about the threats to groundwater and surface water quality and what actions they can take to enhance and protect the Carmans River.

C. The Town, Suffolk County and New York State should place signs on key roadways indicating that a vehicle is entering (or leaving) the Carmans River watershed.

D. Develop and publicize information to homeowners within the Management Plan Area that describes the environmental impacts of fertilizers as well as the proper disposal of chemicals and other hazardous household waste and items.

E. Outreach program to the farmers within the Management Plan Area to ensure that they:

1. Are employing optimal fertilizer application methods,
2. Understand the fertilizer requirements of specific crops and
3. Conduct a soil test before applying additional fertilizer.

## **18. Agricultural and Golf Course Management**

The presence of farms is significant in terms of the regular fertilizer and pesticide applications associated with farming. Agricultural land in the study area comprises field crops and nurseries. The following recommendations should be considered:

### **RECOMMENDATION:**

A. Work cooperatively with farmers within the Management Plan Area, Cornell Cooperative Extension, the Farm Bureau and other governmental agencies to reduce the application of fertilizers, pesticides, and herbicides on agricultural lands and to develop and implement Groundwater and Surface Water Protection Measures (GSPMs) that will reduce the impact of agricultural activities on the

Carmans River.

B. If a sufficient number of groundwater wells are not available to assess the water quality of the groundwater leaving a farm and flowing to towards the Carmans River, additional groundwater wells should be installed. These groundwater wells should be monitored for parameters and at frequency needed to assess the groundwater quality emanating from the farm.

C. Work cooperatively with golf course owners and operators within the Management Plan Area to reduce the application of fertilizers, pesticides, and herbicides on golf courses and to implement Groundwater and Surface Water Protection Measures (GSPMs) that will reduce the impact of golf related activities on the Carmans River.

D. If a sufficient number of groundwater wells are not available to assess the water quality of the groundwater leaving a golf course and flowing to towards the Carmans River, additional groundwater wells should be installed. These groundwater wells should be monitored for parameters and at frequency need to assess the groundwater quality emanating from the golf course.

E. Both farm and golf course management plans should have a goal of 50% reduction in nitrogen use (using a 2010 baseline) over a three-year period.

F. Perform periodic review of farms and golf course operations to ensure that Best Management Practices are being used.

## 19. Management Plan Implementation

### RECOMMENDATION:

A. Carmans River Management Plan should be evaluated by the Town annually to determine its effectiveness in meeting its goals.

B. Take the lead in coordinating implementation of this Management Plan's recommendations and implementation with other agencies and academic institutions.

## 20. Carmans River Management Plan Performance Committee

### RECOMMENDATION:

A. Establish a Carmans River Management Plan Performance Committee which will perform quarterly assessments and produce an annual progress report on the effectiveness of the implementation of *Carmans River Conservation and Management Plan*.

B. Quarterly assessments and the annual progress report, at a minimum, shall examine and evaluate the effectiveness of the following parameters:

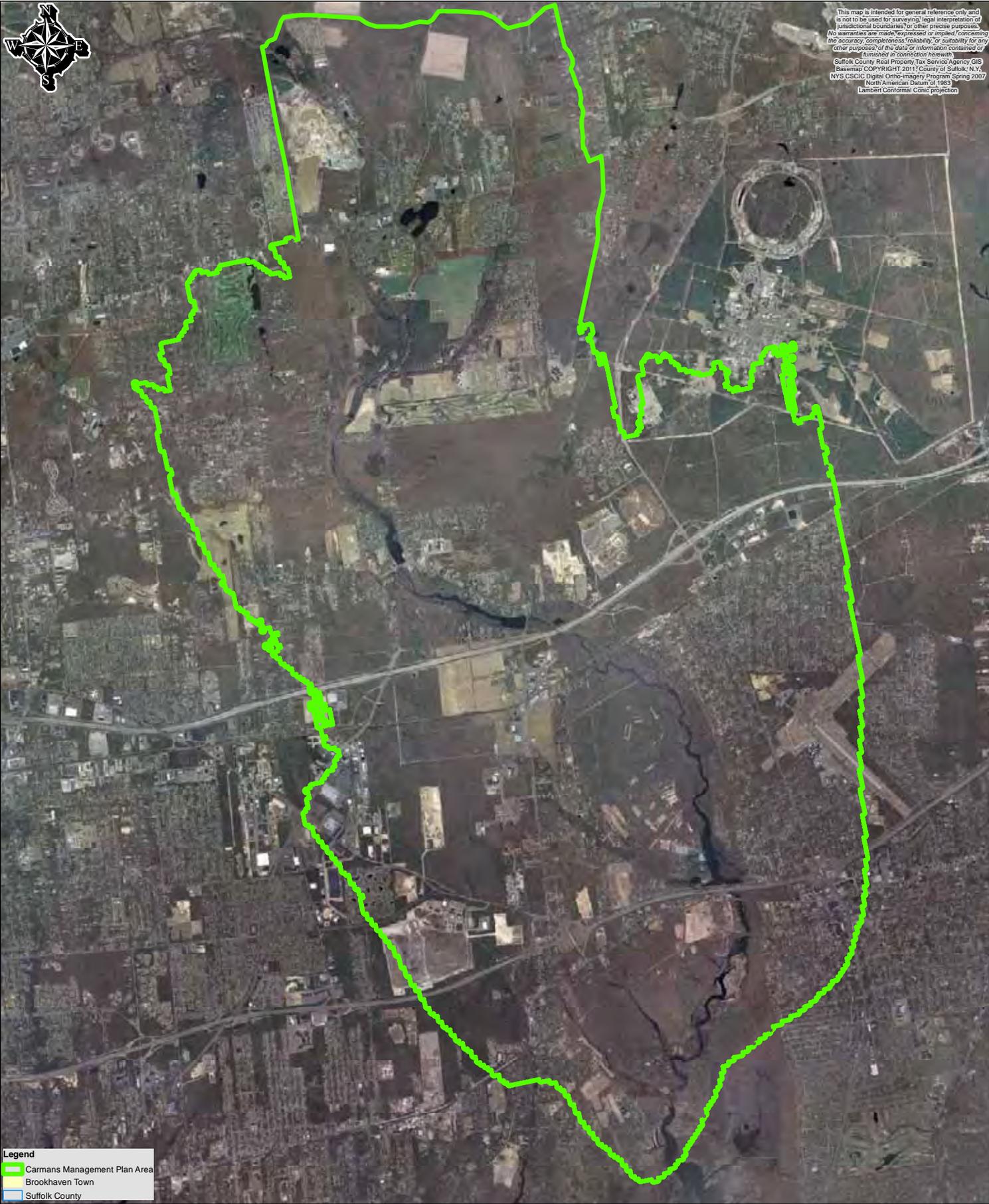
1. Preservation

- a. The acquisition status of priority parcels, the acreage acquired.
- b. The number Pine Barrens Credits redeemed from the Central Pine Barrens Core Expansion Area.
- c. The implementation of mitigation measures.
- d. Progress in improving the water quality of the Carmans River and achieving the targeted water quality goals.

C. The Performance Committee should provide an annual report to the Town

Board and to the Central Pine Barrens Joint Planning Commission

D. Based on Committee's annual report, recommendations to improve the effectiveness of the preservation efforts and the redemption of Pine Barrens Credits should be offered.



This map is intended for general reference only and is not to be used for surveying, legal interpretation of jurisdictional boundaries or other precise purposes. No warranties are made, expressed or implied, concerning the accuracy, completeness, reliability, or suitability for any other purpose of the data or information contained or furnished in connection herewith.  
 Suffolk County Real Property Tax Service Agency GIS  
 EsriMapX COPYRIGHT 2011, County of Suffolk, N.Y.  
 NYS CSCIC Digital Ortho-imagery Program Spring 2007  
 North American Datum of 1983  
 Lambert Conformal Conic projection

**Legend**  
 Carmans Management Plan Area  
 Brookhaven Town  
 Suffolk County



Figure # 4

Study Area  
 Carmans River Conservation and Management Plan



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Basemap: COPYRIGHT 2011, County of Suffolk, N.Y.  
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North American Datum of 1983  
Lambert Conformal Conic projection



**Legend**  
Carmans Management Plan Area  
Publicly owned undeveloped land

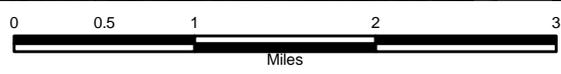
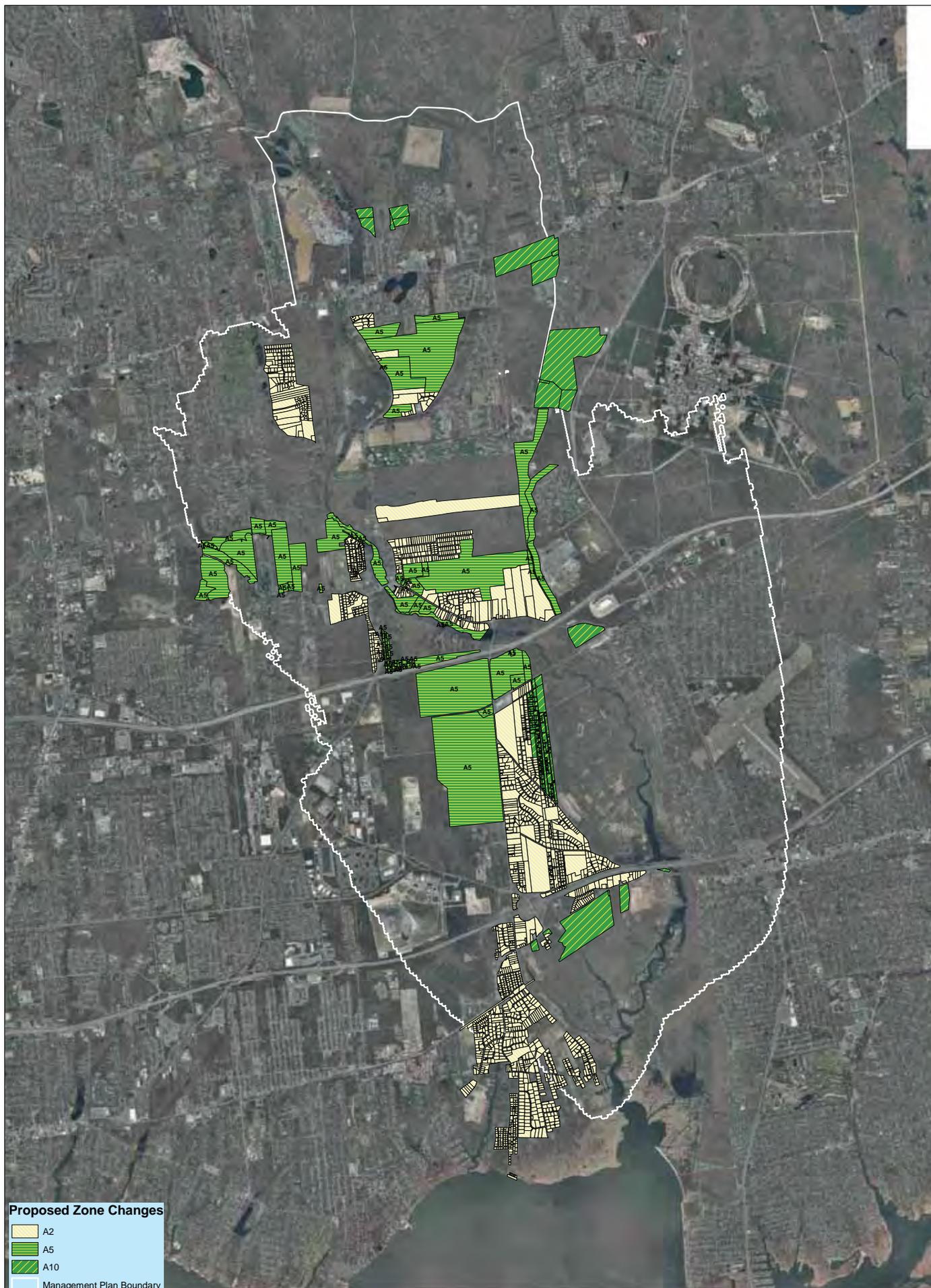


Figure #20  
Publicly owned undeveloped land  
Carmans River Conservation and Management Plan

**Figure 29 Management Plan Area  
Proposed Rezoning**



1 inch = 2,000 feet  
0 1,000 2,000 4,000 6,000  
Feet  
Carmans.June20111.mxd



Map created 05/16/2013  
by Isabel Morris,  
Engineering Aide  
Division of Engineering  
PELM





Steven Bellone  
SUFFOLK COUNTY EXECUTIVE  
Department of  
Economic Development and Planning

Joanne Minieri  
Deputy County Executive and Commissioner

Division of Planning  
and Environment

**STAFF REPORT**  
**SECTIONS A14-14 THRU A14-24 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE**

**Applicant:** Moratorium on certain proposals in the D-3 Business District  
**Municipality:** Village of Patchogue  
**Location:** D-3 Business District, Main Street, Patchogue

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**Received:** 5/31/2013  
**File Number:** Pa-11-01.1

**Jurisdiction:** Local Law

**PROPOSAL DETAILS**

**OVERVIEW** – Application on the Patchogue Village Board of Trustees own motion for approval of a proposed local law to enact a six month (180 day) moratorium on the change of use increase in intensity of use or an increase in occupancy in the D-3 Business District to meet the parking requirements set forth in the Village Code without the inclusion of municipal parking spaces. This local law is an amendment of a prior local law which stayed the construction of new apartment houses, garden apartments, townhouses, residential uses and buildings over three stories tall in the D-1, D-2, and D-3 Business Districts and any “floating” districts (Downtown Redevelopment District). The purpose of the original local law was to “allow the Village of Patchogue time to evaluate and consider the impact of the Downtown Patchogue Redevelopers, LLC project in the DRD District, upon the parking, health, safety and general welfare of the community of the Village of Patchogue and effectuate a solution and/or comprehensive plan to address the future residential density and construction in the primary business zoning districts of the Village.”

Location: Applicable to all properties in the D-3 district (Main Street) Village of Patchogue.

The land uses within the D-3 district are generally in compliance with the permitted uses in the business zoning categories and includes retail, personal service stores, restaurants, offices, apartment houses etc.

**STAFF ANALYSIS**

The proposed local law prohibits any village official to accept for filing any application for a building permit and prohibits the Board of Trustees, Village Board of Zoning Appeals and Village Planning Board from granting any approvals, preliminary or final, for and site plan or subdivision, special approval or special permit, variance or other permission unless the application meets Village parking requirements.

A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends the rights of land owners to use their property. From the perspective of the Suffolk County Planning Commission a limited or narrowly scoped moratorium generally does not involve regional or inter-community impacts of an adverse nature and generally are considered matters for local determination. The Suffolk County Planning Commission has published guidance on the structure and content of moratoria (see attached SCPC Advisory News: Moratorium on Development). The moratorium should be tied to a legitimate comprehensive planning initiative such as the completion of zoning or master plan updates. Where possible the moratorium should be limited and allow for the due process of applications and assure the proper balance between property rights and community planning.

The referred Local Law would be strengthened if it indicated if the Village investigated whether there are any alternatives less burdensome on property owners than the proposed moratorium. It should indicate what recent circumstances have occurred that justify the adoption of the moratorium. It is noted that The proposed local law states that it is the purpose of the local law to “allow the Village of Patchogue time to evaluate and consider the impact of the Downtown Patchogue Redevelopers, LLC project in the DRD District, upon the parking, health, safety and general welfare of the community of the Village of Patchogue and effectuate a solution and/or comprehensive plan to address the future residential density and construction in the primary business zoning districts of the Village.” It is the belief of the staff that such an analysis would have been most appropriate in the SEQRA analysis of the proposed DRD district and the Downtown Redevelopers, LLC project.

This rational is essentially the same rational that supported a prior 180 day moratorium.

## **STAFF RECOMMENDATION**

**Approval** with the following comment:

1. A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends the rights of land owners to use their property. From the perspective of the Suffolk County Planning Commission a limited or narrowly scoped moratorium generally does not involve regional or inter-community impacts of an adverse nature and generally are considered matters for local determination.

It is the belief of the Suffolk County Planning Commission that the 180 day moratorium, when combined with the prior 180 moratorium, is more than adequate to analyze zoning, land use, density and parking requirements and to formulate a zoning and parking scheme for the Village business district.

The Suffolk County Planning Commission encourages the adoption of these regulations sooner than the close of the Moratorium.

**AMENDING SECTION 435-14.1 OF THE VILLAGE CODE TO PROVIDE A MORATORIUM TO CONSIDER REQUIRING APPLICANTS IN THE D-3 ZONE TO PROVIDE PARKING WHEN SEEKING TO INTENSIFY THEIR USE, CONVERTING UNHABITABLE SPACE TO HABITABLE SPACE, INCREASING THE FOOTPRINT OR SQUARE FOOTAGE OF EXISTING BUILDINGS OR INCREASE THEIR OCCUPANCY**

Be it enacted by the Village Board of the Incorporated Village of Patchogue:

The Code of the Incorporated Village of Patchogue, County of Suffolk, New York, is amended by:

AMENDING Section 435-14.1 of the Village Code which shall read as follows:

**[New Language]**

**[Language to be Deleted]**

§ 435-14.1 Moratorium on certain construction **and use and occupancy applications** in ~~D-1, D-2 and the~~ D-3 Business **District and any floating D**districts.

A. Purpose and intent. It is the purpose and intent of this section to establish a moratorium to permit the Village to consider and manage parking in the D-3 Business District **to require any applicant seeking a change of use, increase in intensity of use, or an increase in occupancy in the D-3 Business District to meet the parking requirements set forth in Section 435-31 without the inclusion of municipal parking spaces.** It is the further purpose of this law to allow the Village time to evaluate and consider the impact of the Downtown Patchogue Redevelopers, LLC, project in the DRD District upon the parking, health, safety and general welfare of the community of the Village of Patchogue and effectuate a solution and/or comprehensive plan to address the future commercial density and construction in the primary business zone of the Village. The objective of the moratorium is to promote community planning values by properly regulating land development in the best interests of the Village. Land use controls work best when built upon a carefully considered comprehensive plan, which takes time to put together or to update a good community plan. During this time, demand for a particular use of land may arise for which there are inadequate controls or which requires a more concentrated analysis of the surrounding zoning districts than may be permitted under the current zoning laws.

B. Zoning district application. This law shall apply to all properties in the ~~D-1, D-2 and~~ D-3 district within the confines of the Village of Patchogue.

C. ~~Scope of controls. It is hereby prohibited for a period of 180 days from the date of enactment of this local ordinance for any village official to accept for filing any application for a building permit for new apartment houses, garden apartments, townhouses, residential uses and~~

~~buildings over three stories tall in the D-1, D-2 and D-3 Business Districts and any floating districts and the Board of Trustees, Village Board of Zoning Appeals and Village Planning Board shall not grant any approvals, preliminary or final, for any site plan or subdivision relating thereto or special approval or special permit, variance or other permission for same. The Building Inspector and Code Enforcement Officer shall not issue any building or other permit for any construction or use related to same that would result in such uses in the areas designated. Projects with approved site plans or issued building permits prior to this enactment are exempt from the moratorium.~~

**C. Use and occupancy applications. For a period of 180 days from the date of enactment of this local ordinance, any applicant seeking a change of use, increase in intensity of use, or an increase in occupancy in the D-3 Business District must meet the parking requirements set forth in Section 435-31 without the inclusion of municipal parking spaces. Applications failing to meet this requirement will not be accepted by any village official. The Board of Trustees, Village Board of Zoning Appeals and Village Planning Board shall not grant any approvals, preliminary or final, for any site plan or subdivision relating thereto or special approval or special permit, variance or other permission, when the applicant has failed to meet this requirement. Projects with approved site plans or issued building permits prior to this enactment are exempt from the moratorium.**

**D.** Term. This section shall be in effect for a period of 180 days from its effective date. This section shall be subject to review and renewal by resolution of the Board of Trustees for an additional period of time, effective immediately.

**E.** Penalties. Any person, firm or corporation that shall construct, erect, enlarge or alter any building or structures in violation of the provisions of this section or shall otherwise violate any of the provisions of this section shall be subject to:

(1) Such penalties as may otherwise be provided by the laws, rules and regulations of the Village for violations; and

(2) Injunctive relief in favor of the Village to cease any and all such actions which conflict with this section and, if necessary, to remove any construction which may have taken place in violation of this section.

**F.** Alleviation of hardship.

(1) The Board of Trustees of the Village of Patchogue may authorize exceptions to the moratorium imposed by this section when it finds, based upon evidence presented to it, that deferral of action on an application for the uses prohibited hereunder, and the deferral of approval of such application for the duration of the moratorium would impose an extraordinary hardship on the landowner or applicant.

(2) A request for an exception based upon extraordinary hardship shall be filed with the Village Clerk or designee, and shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship, and shall contain such other information as the Village Clerk or designee shall prescribe as necessary for the Board of Trustees to be fully informed with respect to the application.

(3) A public hearing on any request for an exception based on extraordinary hardship shall be held by the Village Board at the first regular meeting of the Board of Trustees that occurs after the expiration of the period for publication of notice of the request for an exception.

(4) In reviewing an application for an exception based upon a claim of extraordinary hardships, the Board of Trustees shall consider the following criteria:

(a) Submission of proof of hardship. Hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a building permit, site plan, variance, or other approval during the period of the moratorium.

(b) Substantive requirements. No relief shall be granted hereunder unless the Village Board of Trustees shall specifically find and determine and shall set forth in its resolution granting such hardship that:

[1] Failure to grant a hardship to the petitioner will cause the petitioner undue hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the granting of the exemption;

[2] Petitioner's circumstances are different from any other member of the community to the extent the petitioner is burdened by the moratorium substantially greater than any other member of the community; and

[3] Grant of the hardship will clearly have no adverse effect upon any of the Village's goals or objectives enumerated in the moratorium; and

[4] The project or activity for which the petitioner seeks a hardship will be in harmony with the existing character of the Village as a whole and the area of the Village in which the affected land is located, and will be consistent with any interim data, recommendations, or conclusions which may be drawn from any community planning effort then in progress or under review.

[5] The extent to which the proposed establishment would cause significant environmental degradation, adversely impact natural resources or cause public health or safety concerns, or adversely impact the community.

[6] The extent to which actions of the applicant were undertaken in a good

faith belief that the proposed establishment would not lead to significant environmental degradation, undue adverse impacts on natural resources or public health or safety concerns, or adversely affect the community.

(5) At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Board of Trustees shall act upon the request to approve, deny, or approve in part and deny in part the request made by the applicant.

**G.** Validity. The invalidity of any provision of this section shall not affect the validity of any other portion of this section which can be given effect without such invalid provision.

**H.** Superseding other laws.

(1) All laws, ordinances, rules and regulations of the Village are modified and superseded by this section with respect to their application to the properties designated under this section for the term of this section.

(2) This section shall modify and supersede, with respect to the properties covered by this section and, for the term of this section, the provisions of Article 7 of the Village Law of the State of New York and any other law, rule or regulation inconsistent with this section.

This Local Law shall take effect immediately.

<u>Aye</u>	<u>Nay</u>		<u>Aye</u>	<u>Nay</u>	
___	___	Mayor Pontieri	___	___	Trustee Hilton
___	___	Trustee Crean	___	___	Trustee Krieger
___	___	Trustee Keyes	___	___	Trustee Ferb
___	___	Trustee Devlin			

Dated: \_\_\_\_\_, 2013

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Patricia M. Seal - Village Clerk



Steven Bellone  
SUFFOLK COUNTY EXECUTIVE  
Department of  
Economic Development and Planning

Joanne Minieri  
Deputy County Executive and Commissioner

Division of Planning  
and Environment

**STAFF REPORT**  
**SECTIONS A14-14 THRU A14-24 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE**

**Applicant:** Moratorium on Demolitions  
**Municipality:** Inc. Village of Shoreham  
**Location:** Village Wide

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**Received:** 6/17/2013  
**File Number:** Sm-13-02

**Jurisdiction:** Local Law - Moratorium

**PROPOSAL DETAILS**

**OVERVIEW** – Referral from the Inc. Village of Shoreham of a proposed Local Law to enact a 180 day moratorium to prohibit temporarily the processing and approval of any application for permit to demolish an existing residential structure until the Board of Trustees can prepare and enact a local law addressing the need for preservation of structures which contribute to the special character of the Village.

Location: Applicable to all properties within the Incorporated Village of Shoreham boundaries.

**STAFF ANALYSIS**

Referral material to the Suffolk County Planning Commission includes a brief reference to the intent and need of the Moratorium. The local Law reads that the moratorium shall remain in effect for six months so that the Board of Trustees can prepare and enact a local law addressing the need for preservation of structures which contribute to the special character of the Village.

A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends completely the rights of land owners to use their property. From the perspective of the Suffolk County Planning Commission a limited or narrowly scoped moratorium generally does not involve regional or inter-community impacts of an adverse nature and generally are considered matters for local determination. The Suffolk County Planning Commission has published guidance on the structure and content of moratoria (see attached

SCPC Advisory News: Moratorium on Development). The moratorium should be tied to a legitimate comprehensive planning initiative such as the completion of zoning or master plan updates. Where possible the moratorium should be limited and allow for the due process of applications and assure the proper balance between property rights and community planning. The moratorium should not be used to delay controversial development applications.

The moratorium should include findings that confirm the necessity of this action. The Law should indicate what recent circumstances have occurred that justify the adoption of the moratorium and how serious and urgent are these circumstances are. In addition more explicit findings are in order regarding what the condition are that mandate the imposition of the moratorium and if there are no other alternatives less burdensome on property rights. It is the belief of the staff that Section 1, Purpose of the proposed Local Law is too vague.

## **STAFF RECOMMENDATION**

**Approval** with the following comments:

1. Section of the proposed local law, Purpose, should be modified to include more explicit findings necessitating the proposed moratorium.

A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends completely the rights of land owners to use their property. The moratorium should include findings that confirm the necessity of this action. The Law should indicate:

- a. what recent circumstances have occurred that justify the adoption of the moratorium;
  - b. how serious and urgent these circumstances are;
  - c. what the condition are that mandate the imposition of the moratorium; and
  - d. if there are no other alternatives less burdensome on property rights.
2. It is the belief of the Suffolk County Planning Commission that the 180 day moratorium is more than adequate to enact new legislation. The Suffolk County Planning Commission encourages the adoption of these regulations sooner than the close of the Moratorium.

**LOCAL LAW NO. \_\_\_\_\_ OF 2013**

**A LOCAL LAW PROVIDING FOR A TEMPORARY MORATORIUM  
ON DEMOLITIONS**

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF  
SHOREHAM AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this local law is to prohibit temporarily the processing and approval of any application for a permit to demolish an existing residential structure until the Board of Trustees can prepare and enact a local law addressing the need for preservation of structures which contribute to the special character of the Village.

SECTION 2. PROCESSING AND/OR APPROVAL OF PERMITS FOR  
DEMOLITIONS.

Except as otherwise provided herein, for a period of one hundred eighty (180) days after the effective date herein, there shall be neither processing nor approval of applications for permits to demolish any existing residential structure and no such application, pending or otherwise, shall be either deemed complete or processed for a hearing before any agency or board.

SECTION 3. SUPERSESSION.

This local law shall supersede any inconsistent law, state or local. This declaration of supersession is made by authority of the Village's municipal home rule law powers, pursuant to §§ 10(1)(ii)(a)(14) and 10(1)(ii)(e)(3) of the Municipal Home Rule Law, § 10(6) of the Statute of Local Governments, and Article 9, § 2(b)(3) of the New York State Constitution.

SECTION 4. EXEMPTIONS.

Notwithstanding any other provision of this local law, the Board of Trustees may during the duration of this local law by resolution process, approve or deny an application for approval provided that the following requisites occur:

- A. Procedural requirements. The following procedural requirements shall be prerequisite to the grant of an exemption hereunder:
  - (1) The owner shall have filed with the Board of Trustees a written application specifically requesting exemption from this local law together with any application fee fixed by resolution of the Board of Trustees for such an exemption application; and
  - (2) The Board of Trustees shall have held a public hearing on the petition upon at least ten (10) days' prior public notice, which notice shall have been published in the official newspaper.
  
- B. Substantive requirements. No exemption shall be granted hereunder unless the Board of Trustees shall specifically find and determine, and shall set forth in its resolution granting such exemption, that:
  - (1) Failure to grant an exemption to the owner will cause the owner undue hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the grant of the exemption; and
  - (2) Grant of the exemption will clearly have no adverse effect upon any of the Village's goals or objectives in adopting this local law; and
  - (3) The application for which owner seeks an exemption will be in harmony with the existing character of the Village as a whole and the area of the Village in which the affected land is located will not introduce an undesirable change in the neighborhood and will be consistent with any interim data, recommendations, or conclusions which may be drawn from any planning and/or zoning work then in progress or under review;
  - (4) Owner's circumstances are different from any other member of the community to the extent owner is burdened by this local

**PUBLIC NOTICE**

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Shoreham will hold a public hearing on the 9th day of July, 2013, at 7:30 P.M., at the Village Hall, 80 Woodville Road, Shoreham, New York, to consider the adoption of a local law as follows:

**LOCAL LAW NO. \_\_\_\_ OF 2013**

**A LOCAL LAW PROVIDING FOR A TEMPORARY MORATORIUM  
ON DEMOLITIONS**

**SUMMARY**

This local law would enact a moratorium on the processing and/or approval of permits to demolish any existing residential structure pending the enactment of a local law addressing the need for preservation of structures which contribute to the special character of the Village.

This is a summary of the Local Law, a full copy of which is on file in the Village Clerk's office and available for inspection during the Village's office hours.

All persons in interest will be heard by the Board of Trustees at the public hearing to be held as aforesaid and may appear in person or by representative. The Village Hall is accessible to handicapped persons.

Dated: June 11, 2013

BY ORDER OF THE BOARD OF  
TRUSTEES OF THE VILLAGE OF SHOREHAM

BY: Cathy Donahue-Spier,  
Village Clerk



Steven Bellone  
SUFFOLK COUNTY EXECUTIVE  
Department of  
Economic Development and Planning

Joanne Minieri  
Deputy County Executive and Commissioner

Division of Planning  
and Environment

**STAFF REPORT**  
**SECTIONS A14-14 THRU A14-24 OF THE SUFFOLK COUNTY ADMINISTRATIVE CODE**

**Applicant:** Moratorium on Dock Approvals  
**Municipality:** Inc. Village of North Haven  
**Location:** Shoreline of the Inc. Village of North Haven

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**Received:** 6/7/2013  
**File Number:** Nh-11-01

**Jurisdiction:** LOCAL LAW

**PROPOSAL DETAILS**

**OVERVIEW** – Referral from the Inc. Village of North Haven of a proposed Local Law to extend for a period of an additional eight hundred and ten (810) days a prior local law to “prohibit temporarily the processing and approval of any application for approval of any dock or structure accessory to a dock in any waters within or bounding the Village to a distance or 1,500 feet from the shoreline...”

Said proposed Local Law was for a six month period. The purpose of extending the local law is to enable the Board of Trustees to complete its work with respect to the consideration of a local law on dock approvals.

Location: Applicable to multiple properties along the shoreline of Sag Harbor Cove, Noyack Bay, Shelter Island Sound and Sag Harbor.

**STAFF ANALYSIS**

Referral material to the Suffolk County Planning Commission includes a brief reference to the intent and need of the Moratorium. The local Law reads that the moratorium shall remain in effect “pending the completion of ongoing efforts by the Board of Trustees to enact new legislation pursuant to its enabled authority under New York Navigation Law § 46-a (attached) addressing each of these land use activities, it being the Board’s intention that the status quo be maintained in the interest of avoiding the loss of valuable and limited local resources and in the interest of enabling the future regulatory management of these resources by means of new legislative enactments.” The

Local Law continues to read that “the approval of any dock or structure accessory to a dock and/or the issuance of building permits for said land uses is not consistent with the present best interests of the Village.”

A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends completely the rights of land owners to use their property. From the perspective of the Suffolk County Planning Commission a limited or narrowly scoped moratorium generally does not involve regional or inter-community impacts of an adverse nature and generally are considered matters for local determination. The Suffolk County Planning Commission has published guidance on the structure and content of moratoria (see attached SCPC Advisory News: Moratorium on Development). The moratorium should be tied to a legitimate comprehensive planning initiative such as the completion of zoning or master plan updates. Where possible the moratorium should be limited and allow for the due process of applications and assure the proper balance between property rights and community planning. The moratorium should not be used to delay controversial development applications.

The moratorium should include findings that confirm the necessity of this action. The Law should indicate what recent circumstances have occurred that justify the adoption of the moratorium and how serious and urgent are these circumstances are. In addition more explicit findings are in order regarding what the condition are that mandate the imposition of the moratorium and if there are no other alternatives less burdensome on property rights. It is the belief of the Staff that Section 1d. Purpose of the proposed Local Law is too vague.

## **STAFF RECOMMENDATION**

**Approval** with the following comment:

1. A moratorium is, from one perspective, the most extreme land use action that a municipality can take because it suspends completely the rights of land owners to use their property. From the perspective of the Suffolk County Planning Commission a limited or narrowly scoped moratorium generally does not involve regional or inter-community impacts of an adverse nature and generally are considered matters for local determination. The Suffolk County Planning Commission has published guidance on the structure and content of moratoria (see attached SCPC Advisory News: Moratorium on Development). The moratorium should be tied to a legitimate comprehensive planning initiative such as the completion of zoning or master plan updates. Where possible the moratorium should be limited and allow for the due process of applications and assure the proper balance between property rights and community planning. The moratorium should not be used to delay controversial development applications.

The moratorium should include findings that confirm the necessity of this action. The Law should indicate what recent circumstances have occurred that justify the adoption of the moratorium and how serious and urgent are these circumstances are. In addition more explicit findings are in order regarding what the condition are that mandate the imposition of the moratorium and if there are no other alternatives less burdensome on property rights. It is the belief of the Suffolk County Planning Commission that Section 1d. Purpose of the proposed Local Law is too vague.

The Suffolk County Planning Commission encourages the adoption of these regulations sooner than the close of the Moratorium

**PUBLIC NOTICE**

PLEASE TAKE NOTICE that the Board of Trustees of the Village of North Haven will hold a public hearing on the 2nd day of July, 2013, at 5:10 P.M., at the Village Hall, Ferry Road, North Haven, New York, to consider the adoption of a Local Law as follows:

**LOCAL LAW NO. \_\_\_\_ OF 2013**

**A LOCAL LAW EXTENDING LOCAL LAW NO. 5 OF 2011  
PROVIDING FOR A TEMPORARY MORATORIUM ON DOCK APPROVALS**

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE

OF NORTH HAVEN AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this Local Law is to extend an existing moratorium to enable the Board of Trustees to complete its work with respect the consideration of a local law on dock approvals.

SECTION 2. AMENDMENT OF SECTION 2 OF LOCAL LAW NO. 5 OF 2011.

Section 2 of Local Law No. 5 of 2011 is hereby amended to read as follows: Except as otherwise provided herein, for a period of eight hundred ten (810) days after the effective date of Local Law No. 5 of 2011, there shall be neither processing nor approvals of applications for

enactments. At this time the approval of any dock or structure accessory to a dock and/or the issuance of building permits for said land uses is not consistent with the present best interests of the Village.

SECTION 2. PROCESSING AND/OR APPROVAL OF DOCK APPLICATIONS.

Except as otherwise provided herein, for a period of one hundred eighty (180) days after the effective date herein, there shall be neither processing nor approval of dock applications and/or dock accessory structure applications and no such application, pending or otherwise, shall be either deemed complete or processed for a hearing before any agency or board.

SECTION 3. PROCESSING AND/OR APPROVAL OF BUILDING PERMIT APPLICATIONS.

Except as otherwise provided herein, for a period of one hundred eighty (180) days after the effective date herein, there shall be neither processing nor approvals of building permit applications for a dock or any structure accessory to a dock and no such application, pending or otherwise, shall be either deemed complete or processed for a hearing before any agency or board.

SECTION 4. SUPERSESSION.

This Local Law shall supersede any inconsistent law, state or local. This declaration of supersession is made by authority of the Village's municipal home rule law powers,

pursuant to §§10(1)(ii)(a)(14) and 10(1)(ii)(e)(3) of the Municipal Home Rule Law, §10(6) of the Statute of Local Governments, and Article 9, §2(b)(3) of the New York State Constitution.

SECTION 5. EXCLUSIONS.

This Local Law shall not apply to any application for a dock or dock accessory structure which has been approved by the Board of Trustees prior to the effective date of this Local Law provided this exclusion shall lapse and be without force or effect upon the expiration of this Local Law as provided in Section 2 above excepting where a building permit has issued and property rights have vested by reason of the substantial completion of construction of any said dock and/or dock accessory structure.

SECTION 6. EXEMPTIONS.

Notwithstanding any other provision of this Local Law, the Board of Trustees may during the term of this Local Law by resolution process, approve or deny an application for approval provided that the following requisites occur:

- A. Procedural requirements. The following procedural requirements shall be prerequisite to the grant of an exemption hereunder:
  - (1) The owner of the land affected shall have filed with the Board of Trustees a written application specifically requesting exemption from this Local Law together with any application fee fixed by

resolution of the Board of Trustees for such an exemption application; and

- (2) The Board of Trustees shall have held a public hearing on the petition upon at least ten (10) days' prior public notice, which notice shall have been published in The Sag Harbor Express.

B. Substantive requirements. No exemption shall be granted hereunder unless the Board of Trustees shall specifically find and determine, and shall set forth in its resolution granting such exemption, that:

- (1) Failure to grant an exemption to the owner will cause the owner undue hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the grant of the exemption; and
- (2) Grant of the exemption will clearly have no adverse effect upon any of the Village's goals or objectives in adopting this Local Law; and
- (3) The application for which owner seeks an exemption will be in harmony with the existing character of the Village as a whole and the area of the Village in which the affected land is located, and will be consistent with any interim data, recommendations, or conclusions which may be drawn from any planning work then in progress or under review; and
- (4) Owner's circumstances are different from any other member of the community to the extent owner is burdened by this Local Law substantially greater than any other member of the community.

SECTION 7. SEQRA.

This Local Law is exempt from review under 6 NYCRR

§617.5(b)(30).

SECTION 8. SEVERABILITY.

Should any part or provision of this Local Law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Local Law as a whole nor any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 9. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law.

All persons in interest will be heard by the Board of Trustees at the public hearing to be held as aforesaid and may appear in person or by representative. The Village Hall is accessible to handicapped persons.

Dated: August 9, 2011

BY ORDER OF THE BOARD OF TRUSTEES  
OF THE VILLAGE OF NORTH HAVEN

BY: Georgia Welch, Village Clerk

**PUBLIC NOTICE**

PLEASE TAKE NOTICE that the Board of Trustees of the Village of North Haven will hold a public hearing on the 18th day of August, 2011, at 5:00 P.M., at the Village Hall, 335 Ferry Road, Sag Harbor, New York, to consider the adoption of a Local Law as follows:

**LOCAL LAW NO. \_\_\_\_\_ OF 2011**

**A LOCAL LAW PROVIDING FOR A TEMPORARY MORATORIUM  
ON DOCK APPROVALS**

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF NORTH HAVEN AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this Local Law is to prohibit temporarily the processing and approval of any application for approval of any dock or structure accessory to a dock in any waters within or bounding the Village to a distance of 1,500 feet from the shoreline pending the completion of ongoing efforts by the Board of Trustees to enact new legislation pursuant to its enabled authority under New York Navigation Law § 46-a addressing each of these land use activities, it being the Board's intention that the status quo be maintained in the interest of avoiding the loss of valuable and limited local resources and in the interest of enabling the future regulatory management of these resources by means of new legislative

docks and no application, pending or otherwise, shall be either deemed complete or processed for a hearing before said Board.

SECTION 3. SEQRA.

This is a Type II action under 6 NYCRR § 617.5(c)(30).

SECTION 4. EFFECTIVE DATE.

This Local Law shall be effective upon the filing thereof with the Secretary of State of the State of New York.

All persons in interest will be heard by the Board of Trustees at the public hearing to be held as aforesaid and may appear in person or by representative. The Village Hall is accessible to handicapped persons.

Dated: June 4, 2013

BY ORDER OF THE BOARD OF  
TRUSTEES OF THE VILLAGE OF  
NORTH HAVEN

BY: Georgia Welch,  
Village Clerk