

FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT

for

The Carmans River Conservation and Management Plan

**Town of Brookhaven
Suffolk County, New York**

Volume 1 of 1

**Brookhaven Town Planning, Environmental &
Land Management**



**Town of
Brookhaven
Long Island**

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**FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT
FOR THE CARMANS RIVER CONSERVATION AND
MANAGEMENT PLAN**

*in the hamlets of Brookhaven, Middle Island, Shirley and Yaphank,
Town of Brookhaven, Suffolk County, New York*



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1.0 INTRODUCTION

1.1 Background

This document is the Final Generic Environmental Impact Statement (FGEIS) for the proposal by the Brookhaven Town Board to adopt the ***Carmans River Conservation and Management Plan***.

This FGEIS has been prepared in compliance with Section 8-0109 of the New York State Environmental Conservation Law (the State Environmental Quality Review Act, SEQRA) and the implementing regulations of SEQR at 6 NYCRR Part 617, including the specific provisions which relate to the content of final environmental impact statements contained in 6 NYCRR §617.9(b)(8). Pursuant to 6 NYCRR §617.9(b) (8), the DGEIS is hereby incorporated and part of this FGEIS. Errors within the DGEIS have been updated with corrections. These corrections are noted in the text so that both the original information within the DGEIS as accepted by the Lead Agency and the corrections are apparent.

It is noted that the Action that is the subject of this EIS, the adoption of the Carmans River Conservation and Management Plan, is not anticipated to cause any significant adverse environmental impacts; rather it is intended to mitigate existing impacts to the Carmans River and reduce the potential for future adverse environmental impacts to the river. The Brookhaven Town Board is the lead agency for this action under SEQRA.

A Draft Generic Environmental Impact Statement (DGEIS) dated July 2013 was prepared for the proposed action. At its July 2, 2013 meeting, the Brookhaven Town Board accepted the DGEIS as complete with respect to its scope and content for the purpose of commencing public review, in accordance with 6 NYCRR §617.9(a)(2). The DGEIS subsequently was coordinated for review to Involved Agencies and to solicit comments from interested agencies and the public, pursuant to 6 NYCRR §617.12. The DGEIS was distributed to three local libraries with the Management Plan area and posted on the Town of Brookhaven's website.

A public hearing regarding the DGEIS was held by the Town Board on July 30, 2013, pursuant to 6 NYCRR §617.9(a)(4). The public comment period was held open until August 21, 2013 to allow for the opportunity for further comments to be received.

Following its official acceptance by the Brookhaven Town Board, this FGEIS will be circulated in accordance with the requirements of 6 NYCRR §617.12. It is also being posted on the Town of Brookhaven's website and distributed through Longwood Library, South Country Library, and Middle Country Library. Before issuing Findings and making a decision on the Action, the Town Board will provide a minimum period of ten days for agencies and the public to consider the FGEIS.

1.2 Carmans River Conservation and Management Plan (Management Plan)

The *Carmans River Conservation and Management Plan* presents existing conditions, land use strategies, zoning recommendations and Town of Brookhaven code amendment recommendations for the 10.5-mile long Carmans River Corridor. The river is located within the hamlets of Middle Island, Yaphank, Shirley, Southaven and Brookhaven. The primary intent of the Management Plan is to preserve and protect the natural resources of land within the Carmans River watershed and water quality within the river. Since greater than 90% of the flow of the Carmans River is provided by groundwater, it is critical to protect groundwater quality within the watershed in order to also protect water quality in the river. The potential for future adverse impacts to water quality will be reduced by reducing the potential for future development that adversely impacts water quality. It is important to the residents of the Town of Brookhaven that the ecological integrity, aesthetic qualities, and recreational opportunities of the river and associated watershed be protected. The measures put forth in the Plan are required in order to meet these goals.

The Management Plan will achieve the two goals of water quality protection and of protecting the natural qualities of lands within the watershed by applying standards developed for the protection of the Central Pine Barrens. These include public acquisition of lands as protected Open Space, the rezoning of lands within the watershed to lower impact uses, the utilization of Best Management Practices (BPM's) for stormwater runoff, and by implementing a series of recommendations designed to decrease adverse impacts associated with land use within the watershed.

The Management Plan, in and of itself, does not result in any direct physical activity or direct modification of the environment. The Management Plan presents, in the form of recommendations, a range of measures that are intended to be utilized in future land use decisions to minimize adverse environmental impacts.

1.3 Future Specific and Site-specific Actions

The Generic EIS and the Findings will set forth specific conditions or criteria under which future actions will be undertaken or approved, including requirements for any subsequent SEQRA compliance. This may include thresholds and criteria for supplemental EISs to reflect specific significant impacts, such as site specific impacts, that were not adequately addressed or analyzed in the generic EIS.

SEQRA regulations state that "GEISs and their findings should set forth specific conditions or criteria under which future actions will be undertaken or approved, including requirements for any subsequent SEQRA compliance."

SEQRA Regulations Section 617.10(d)

1. No further SEQRA compliance is required if a subsequent proposed action will be carried out in conformance with the conditions and thresholds established for such actions in the GEIS or its findings statement;

- 2. An amended findings statement must be prepared if the subsequent proposed action was adequately addressed in the GEIS but was not addressed or was not adequately addressed in the findings statement for the GEIS.*
- 3. A negative declaration must be prepared if a subsequent proposed action was not addressed or was not adequately addressed in the GEIS and the subsequent action will not result in any significant environmental impacts.*
- 4. A supplemental to the final GEIS must be prepared if the subsequent proposed action was not addressed or was not adequately addressed in the GEIS and the subsequent action may have one or more significant adverse environmental impacts.*
- 5. A supplement to the final EIS must be prepared if the subsequent proposed action is not in conformance with the goals and the underlying intent of the Carmans River Conservation and Management Plan..*

1.4 Incorporation of DGEIS into FGEIS Document

The DGEIS document is incorporated into this FGEIS.

1.5 Content of DGEIS

The DGEIS was prepared by the Town of Brookhaven and consists of eight distinct sections and an Executive Summary. The DGEIS consists of all required chapters, including:

EXECUTIVE SUMMARY

- 1. DESCRIPTION OF THE ACTION**
- 2. NATURAL RESOURCES**
- 3. HUMAN ENVIRONMENT**
- 4. OTHER REQUIRED SECTIONS**
- 5. ALTERNATIVES**
- 6. FUTURE ENVIRONMENTAL REVIEW**
- 7. REFERENCES**

The DGEIS concluded that the proposed action would not cause any significant environmental impacts. The Action is designed to decrease the potential for future adverse environmental impacts that are likely to occur under the existing conditions. No mitigation measures are proposed in connection with the proposed Action because the Action is, of itself, mitigation of environmental impacts.

1.6 Purpose of the FGEIS

This FGEIS, in conjunction with the July 2013 DGEIS is intended to provide the Brookhaven Town Board, as the Lead Agency with an understanding of the potential environmental impacts (beneficial or adverse) associated with adoption of the ***Carmans River Conservation and Management Plan***, to identify mitigation of adverse impacts, and to identify the alternative that minimizes adverse impacts.

1.7 Scope and Content of the FGEIS

The primary objective of this FGEIS is to address comments received in response to the July 2013 DGEIS. Section 2 of this FGEIS identifies comments and provides responses to each, conforming to the specific requirements set forth under 6 NYCRR §617.9(b) (8). The comments are contained in the transcript of the public hearing held by the Town Board on July 30, 2013, as well as in communications received by the Town prior to the end of the comment period on August 21, 2013. Copies of the comments are provided as appendices to this FGEIS. Pursuant to 6 NYCRR §617.9(b) (8), the DGEIS in its entirety is incorporated into this FGEIS.

2.0 RESPONSES TO SUBSTANTIVE COMMENTS

2.1 Introduction

This section of the FGEIS provides responses to comments compiled by the Lead Agency, the Town Board of the Town of Brookhaven. Comments received by the Town regarding the DGEIS included verbal statements made at the public hearing before the Town Board on July 30, 2013, as well as communications received by the Town prior to the end of the comment period on August 21, 2013. Copies of the comments are provided as appendices to this document.

A total of 13 separate correspondences were received during the designated written comment period. These correspondences are provided in their entirety in Appendices A through M below. A total of 23 individuals, including Town of Brookhaven personnel, provided verbal commentary at the July 30, 2013 public hearings for the DGEIS. These statements were recorded by the Town and are included as stenographic minutes in Appendix N.

In accordance with the provisions of SEQRA regarding the content of Final EIS's, this FGEIS addresses substantive comments. The FGEIS does not address comments that do not have relevance to the identification and evaluation of impacts as described by SEQRA and the formulation of suitable mitigation measures which are essential to the decision-making process for the proposed action. Comments have been incorporated into the SEQRA record for the Town Board, involved and interested agencies, and general public consideration, and are provided in the Appendices of this FGEIS.

To avoid unnecessary repetition, several broad categories of comments or topic headings were created so that comments could be grouped under appropriate topics as applicable. Topic headings include:

- ☐ Pine Barrens (PB)
- ☐ Acquisition Program (AP)
- ☐ Land Use and Zoning (LZ)
- ☐ Wild Scenic Recreation River (WSR)
- ☐ Water Quality (WQ)
- ☐ Storm Water (SW)
- ☐ Sanitary Systems (SS)
- ☐ Natural Resources (NR)
- ☐ SEQRA Process (SEQ)
- ☐ Appendix/Maps (AM)
- ☐ General (G)

Also, in order to facilitate review of the FGEIS by interested parties, each comment document or correspondence was assigned an identifying letter (e.g., correspondence "A", correspondence "B", etc.). Within each document, substantive comments were identified and consecutively numbered (for example, "A-1" is the first comment in correspondence "A", "A-2" is the second comment in correspondence "A", etc.). Comment identification codes are shown next to the original comment on the respective correspondence provided in the

Appendices of this FGEIS, and are shown in parentheses at the end of each comment provided in section 2.2. In so doing, each comment addressed in the FGEIS can be referenced back to the original statement and correspondence received.

Correspondence codes and Appendix designations are show in Table 1:

Table 1
Correspondence and Appendix Codes

FGEIS Appendix	Commentator	Type of Correspondence and Date
A	James R Rennert	July 18, 2013 Letter to Town Clerk
B	East Moriches Property Owners Association	July 30, 2013 Letter to Town Clerk
C	Joan Nickeson	July 30, 2013 Email Letter to Town Board
D	Vision Long Island	July 30, 2013 Letter to Town Clerk
E	Open Space and Farmland Committee	July 26, 2013 Letter to Town Board
F	Martin Van Lith	August 12, 2013 Letter to Planning
G	Central Pine Barrens	August 09, 2013 Letter to Town Clerk
H	Pine Barrens Society/Nature Conservancy	August 20, 2013 Letter to Commissioner Bertoli
I	East Moriches Property Owners Association	August 21, 2013 Letter Town Clerk
J	Friends of Wertheim	August 21, 2013 Letter to Town Clerk
K	Multiple Authors	August 21, 2013 Letter to Town Clerk
L	Open Space Council	August 21, 2013 Letter to Town Clerk
M	Andrea Spilka	August 21, 2013 Letter to Town Clerk
N	Public Hearing Transcript from July 30, 2013	July 30, 2013 Public Hearing Transcript

2.2 Responses to Comments

2.2.1 Pine Barrens Expansion (PB)

Comment: *How many credits are likely to be reduced by a municipality or the state acquiring the taken land? How may the remaining credits be redeemed, and how are they likely to be redeemed? (B-3)*

Response: The Central Pine Barrens Comprehensive Land Use Plan (Version of 5/1/96), Section 3.1 states:

“It is a goal of this Plan to advocate the use of fee simple acquisition as the principal protection measure – the tool of choice - for the majority of the privately held, undeveloped and currently unprotected lands within the Core Preservation Area. Acquisition of the full interest in conservation, park, preserve, and recreational lands provides a secure foundation for management, recreation and resource protection.

Specifically, it is this Plan’s long range goal that 75% of the privately held, undeveloped and currently unprotected lands within the Core Preservation Area be protected through acquisition. The Commission recognizes that achieving this goal is dependent upon the availability of public funds.”

The Carmans River Conservation and Management Plan follow this long range goal. The addition of lands into the Core Preservation Area is anticipated to generate approximately 135 new Pine Barrens Credits (PBCs). Fee simple acquisition of 75% of these lands would reduce the number of available PBCs to approximately 33.75 PBCs. These PBCs can then be used throughout the Town of Brookhaven in conformance with credit redemption program offered by the Brookhaven Town Code including, but not limited to: Planned Development District (PDD), Residential Overlay District (ROD), and MF zoning redemption requirement. The most common use of PBCs - redemption for enhanced sanitary flow in commercial and industrial development projects pursuant to the Suffolk County Department of Health Services requirements.

Comment: *In the discussion on pages 129 to 131 the sentence beginning, “Property in the Pine Barrens Core...,” only mentions one part of the Credit Program concerning additional density on designated receiving sites, but it is not limited to just the as of right sites. There are incentive zoning provisions as well and Pine Barrens Credits (PBCs) can also be used for increased sanitary (intensity) through the Suffolk County Department of Health Services (SCDHS). Perhaps a statement should be added to include some of the other PBC redemption opportunities including but not limited to incentive zoning and redemption at the SCDHS for projects that increase land use density and/ or intensity. (G-7)*

Response: The comment is acknowledged. This section of the Management Plan is specific to "Restrictions on Land." The discussion regarding the Pine Barrens Core Preservation Area correctly indicates the limitations on development and the eligibility of Pine Barrens Credits for transfer of development rights. Discussion of the potential use of Pine Barrens Credits can be found on pages 170-173 of the Management Plan.

Comment: *Interpretations of the provisions of New York State Environmental Conservation Law ECL) Article 57, specifically the development and "non-development" activities outlined in ECL§ 57- 0107(13) could create confusion and be misinterpreted by readers. The interpretations should be replaced with a reference to the source of information, which is ECL §57-0107(13). For example, on page 131, the statement that clearing is permitted on a residential parcel in the Compatible Growth Area may be misunderstood without at least a caveat to explain that other restrictions or regulations may apply including, but not limited to, Declaration(s) Covenants and Restrictions(C&Rs) and/ or easements recorded in the Office of the Suffolk County Clerk and/ or the Town that may restrict additional clearing, regardless of use, accessory or otherwise. Furthermore, care be should be taken to distinguish parcels created after ECL Article 57 was enacted. If a parcel was created from a subdivision or a site plan approved after 1995 and therefore after both Article 57 and the CLUP were implemented, the CLUP clearing standards would have been applied and C&Rs that restrict clearing may have been imposed. As a result, potentially no additional clearing may be permitted without a hardship waiver from the Commission. Therefore, a simple reference to the applicable ECL Article 57 provisions is more direct, is more accurate and avoids misinterpretations and misunderstandings. (G-8)*

Response: The comment is acknowledged. The Management Plan will be revised accordingly.

Comment: *In the context of actions that are "allowable," a more accurate reference than the CLUP is New York State Environmental Conservation Law §57- 0107(13), which defines development and non- development" activities. (G-9)*

Response: The comment is acknowledged. The Management Plan will be revised accordingly.

Comment: *In the discussion on page 140, it should be noted that some of the references to DRS criteria may change due to the Commission's current Plan Amendments process. The Plan should reference the CLUP section, rather than listing the DRS criteria, as some of the criteria may be amended in the future. Moreover, the reference in the Plan may be an inaccurate interpretation of DRS criteria. The section of the CLUP that pertains to 2.5 ppm nitrate-nitrogen is*

currently a Guideline (5.3.3.1.3) in Chapter 5, and it does not reference the "property line," as stated in the Plan. (G-12)

Response: The Management Plan and the GEIS cannot anticipate potential DRS criteria changes, which would be more fully examined in any future Central Pine Barrens Comprehensive Land Use Plan update. Page 140 correctly indicates the thresholds and criteria for Development of Regional Significance as currently provided in CLUP and in §85-445 C (1) & (2) of Brookhaven Town Code.

However, the commentator is correct with respect to the reference to the 2.5 ppm nitrate-nitrogen as a Guideline in the CLUP and the reference to the "property line". The Management Plan will be revised accordingly.

Comment: *Recommendation A2 on page 171 provides the overall acreage and individual parcels of land involved in the proposed expansion of the CGA. The document should also provide the acreage of private land and number of private parcels in the expanded CGA. (G-19)*

Response: The Management Plan will be revised to include the requested information.

Comment: *Recommendations A and B on pages 171- 172 refers to new CGA parcels. These should be mapped by the Town. A map should be prepared in accordance with the proposed metes and bounds description. Once complete, please forward the draft map to the Commission for review. (G-20)*

Response: Figure 27 as shown in the Management Plan depicts the proposed CGA boundaries in accordance with the proposed metes and bounds description found in Appendix C. The draft map and metes and bounds description were forwarded to the Commission staff for their review, via email, on May 9, 2013 and a response was received via email on May 14, 2013.

Comment: *Recommendation B references Appendix B which in turn provides a listing of the tax map parcels included in the proposed expansion. An additional Appendix should be prepared and included which lists the tax parcels by "Expanded CG, South of the LIE," Expanded Core Area South of the LIE" and "Expanded Core Area North of the LIE." (G-21)*

Response: The comment is acknowledged. Appendix B in the Management Plan has been revised accordingly.

Comment: *Recommendation B on page 171 references Figure 27 which shows proposed CGA and Core Areas. However, the map in this figure does not distinguish existing CGA and Core from that which is proposed. Accordingly, an additional map should be prepared and included which depicts these distinct areas (existing Core, existing CGA, new Core and new CGA). (G-22)*

Response: The comment is acknowledged. A new map will be added to the Appendix in the Management Plan.

Comment: *Recommendation C on page 172 discusses the properties proposed to be placed in an expanded Core Preservation Area. The following information should also be provided: Expanded Core south of the LIE, Total acreage and total number of parcels proposed Acreage of private land and number of private parcels. (G-23) (G-67)*

Response: The comment is acknowledged. The Management Plan has been revised accordingly.

Comment: *Recommendation C on page 172 discusses the properties proposed to be placed in an expanded Core Preservation Area. The following information should also be provided: Expanded Core north of the LIE, Total acreage and total number of parcels proposed Acreage of private land and number of private parcels. (G-24) (G-68)*

Response: The comment is acknowledged. The Management Plan has been revised accordingly.

Comment: *Recommendation C on page 172 discusses the properties proposed to be placed in an expanded Core Preservation Area. The following information should also be provided, Total Increase in the area of the Central Pine Barrens south of the LIE which is equal to the Total new CGA area plus the Expanded Core Area south of the LIE. (G-25) (G-69)*

Response: The comment is acknowledged. The Management Plan and has been revised to note the total area of the CGA plus the Core.

Comment: *Recommendation E on page 172 states that approximately 135 Pine Barrens Credits would be generated by the new Core expansion area. The Suffolk County Tax Map#, location, size, current zoning and ownership of the parcels from which the 135 Pine Barrens Credit figure was derived, along with a map of these parcels, should be provided so that the Commission can verify this projection and*

ensure that the allocation calculations are consistent with those in effect in Chapter 6 of the CLUP, Pine Barrens Credit Program. (G-26)

Response: Recommendation E-1 in the Management Plan finds that the 135 PBCs is an estimate based on the criteria set forth in the *Central Pine Barrens Comprehensive Land Use Plan, Chapter 6.3 Allocation of Pine Barrens Credits.* The Management Plan further states that determining the exact number of PBCs is subject to review and the issuance of certificates by the Pine Barrens Credit Bank and Clearinghouse. The Town of Brookhaven will submit any and all documents necessary for the Pine Barrens Commission to determine the number of Pine Barrens Credits generated as a result of the Core Area Expansion. Appendix B in the Management Plan has been revised to include current tax map numbers, physical location, size and zoning of the parcels of land in the expanded Core Preservation Area.

Comment: *Recommendation E also states that allocation of Pine Barrens Credits to these new Core parcels should be based on existing zoning as of the date of the Carmans River Management and Conservation Plan. As the existing CLUP refers to a parcel's zoning status as of 1995, it should be noted that the Town would need to make a recommendation to the Central Pine Barrens Commission that Pine Barrens Credit allocation zoning status, only for the Carmans Core expansion area parcels, be changed accordingly. It should be noted that other adjustments to the CLUP may be required as well. (G-27)*

Response: The comment is acknowledged. The Management Plan has been revised to include a recommendation to the Central Pine Barrens Commission to amend the Central Pine Barrens Comprehensive Land Use Plan to allocate credits for the expanded Core Preservation Area based on the zoning in place on the date that State Legislation was signed into law creating the expanded Core area.

Comment: *In Recommendation E, please conduct a credit analysis and, as part of that analysis, identify receiving sites as well as potential impacts on the existing credit program. The Town should also present this proposal to both the Commission and the Credit Clearinghouse, which is an advisory board to the Commission, to explain any new obligations, responsibilities, and jurisdiction under the Carmans Plan. (G-28)*

Response: A PBC analysis has been conducted and it has been estimated that 135 PBCs will be generated by the expansion of the Core Preservation Area, as indicated in Recommendation E-1 of the Management Plan. All A-1/A-2 residentially zoned lands within the Town of Brookhaven are designated as-of-right receiving sites pursuant to Town Code and the CLUP, please see Appendix A in this FGEIS. There are no impacts anticipated to the existing PBC program with the addition of new PBCs.

It is also expected that the obligations, responsibilities and jurisdiction of the Pine Barrens Joint Planning and Policy Commission will remain the same and will apply to the new Pine Barrens expansion area as approved by the State Legislation.

Comment: *Recommendation F on page 173 states that the Town should make a request to the Commission to amend the CLUP to incorporate the new CGA and Core lands and the Carmans Plan recommendations. Any proposed amendments to the CLUP should be specifically identified and officially presented to the Central Pine Barrens Commission for its review and consideration. (G-29)*

Response: The comment is acknowledged.

Comment: *Furthermore, it is important to recognize that the proposed amendments result in expansions of the Commission's jurisdictional boundaries and responsibilities. As a result, the Commission will have the authority to receive and review hardship applications and requests for Letters of Interpretation for Pine Barrens Credit allocations from the new Core area. In addition, in the expansion areas the Commission will have the ability to conduct review of development projects for conformance with the CLUP, undertake compliance and enforcement efforts pursuant to Article 57 and coordinate science and stewardship initiatives with land managers. (G-30)*

Response: The comment is acknowledged.

Comment: *Recommendation G on page 173 notes that the Town has adopted a new MF Zoning category to increase redemption of Pine Barrens Credits and should continue to develop innovative ways to redeem Pine Barrens Credits. It is recommended that the Town explore means of mandating Pine Barrens Credit redemption, especially in the CGA, and implement such measures. (G-31)*

Response: The comment is acknowledged.

Comment: *Central Pine Barrens Expansion Area: It appears that some of the parcels listed to be added to the Core Preservation Area are shown as already in the Core. For example, Robinson Duck Farm County Park is currently completely outside of the Central Pine Barrens yet is shown as being within the existing Core. The Commission should have the opportunity to review the proposed description of the expansion area and to work with the Town to reconcile these discrepancies. (G-54)*

Response: Figure 27 as shown in the Management Plan depicts the proposed CGA boundaries in accordance with the proposed metes and bounds description found in

Appendix C. The draft map and metes and bounds description were forwarded to the Commission staff for their review, via email, on May 9, 2013 and a response was received via email on May 14, 2013.

Comment: *It should be noted that the ZBA cannot grant variances for parcels in the Central Pine Barrens area that would contravene the Central Pine Barrens standards contained in Town code and the CLUP. (G-60)*

Response: The Zoning Board of Appeals (ZBA) jurisdiction is subject to Town Law. The ZBA does not have the jurisdiction to grant variances from the Central Pine Barrens standards. Any application that does not comply with Central Pine Barrens standards would require an application to the Pine Barrens Commission for a hardship exemption.

Comment: *Note that additions to the CGA not only will benefit from the standards related to clearing and fertilizer dependent vegetation but also all of the standards and guidelines that protect habitat, surface water and groundwater. (G-61)*

Response: The comment is acknowledged.

Comment: *Page 16 of this section discusses implementation procedures and amendments to the Pine Barrens Act and the Central Pine Barrens Comprehensive Land Use Plan (CLUP). Any sections that require amendments should be specifically identified and presented to the Commission for review in the CLUP Amendments process. (G-62)*

Response: The comment is acknowledged.

Comment: *In the last sentence of the third paragraph on page 16 the statement should include not only the standards for clearing and fertilizer but note all of the Pine Barrens standards and guidelines. (G-63)*

Response: The comment is acknowledged. The following is incorporated herein: The legislation calls for public open spaces which are located in close proximity to the River to be added to the Core. Additionally, the Core boundary north and south of the Long Island Expressway will be expanded to include privately owned parcels. Significant protection for surface waters, groundwater and vital habitats will be provided from expanding the Core. The legislation also calls for the expansion of the Pine Barrens Boundaries south of the Long Island Expressway. By expanding the boundaries, additional lands will be included in the Compatible Growth Area. Development in the CGA is limited by clearing standards, limits of fertilized

vegetation along with all of the Pine Barrens standards and guidelines, which will have a positive influence on surface waters and groundwater quality.

Comment: *In the "Implementation Procedures" subsection on page 16 and 17, the first sentence of this subsection states that "the Plan must be approved by the Central Pine Barrens Joint Planning and Policy Commission." More importantly, sections of the Town's Carmans Plan which are under the jurisdiction of the Commission would need to be approved by the Commission as formal amendments to the CLUP. The second sentence of this subsection states "Once the Plan has been ratified, the Town of Brookhaven shall adopt it as an amendment to the Pine Barrens Act, as per Section 57- 0121 of the Comprehensive Land Use Plan (CLUP)." This statement is incorrect.* (G-64) (G-65)

Response: The comment is acknowledged. The following is incorporated herein: The Plan must be approved by the Central Pine Barrens Joint Policy and Planning Commission (CPBJPPC). Once the Plan has been ratified and the formal amendments to the Comprehensive Land Use Plan (CLUP) are approved by the Commission, the Town shall adopt and/or amend their local laws to create conformity with the Plan, as necessary. The Town shall then submit the proposed regulations to the Commission for review and approval. Upon adoption of the approved land use regulations, the amendment to the Pine Barrens Act shall be deemed implemented. Upon implementation of the new land use regulations, all provisions of the act shall apply.

Comment: *Subsection 1. 5. 4 discusses what other measures the Town has taken to offer additional means for the redemption of Pine Barrens Credits and evaluate impacts to receiving area ratios due to the implementation of this Plan. However, these specific measures are not outlined and should be described and explained here.* (G-70)

Response: As offered in the Management Plan and DGEIS, the steps that the Town of Brookhaven has taken include the amendments to the MF Residential Zoning Code. The Town has also adopted a Land Use Intensification Mitigation Fee Code to increase funding for open space acquisition, and further, the Town Board has re-allocated two million dollars of capital budget funds for initial acquisitions within the Carmans River watershed. The Town may take additional steps in the future, as may be necessary.

Comment: *The original date of the CLUP is 1995; the revision date is 1996. When the document refers to the revision date, it may be more accurate to refer to it as "the CLUP dated 1995, as amended in 1996."* (G-75)

Response: The comment is acknowledged, the document will be updated to reflect the change as requested.

Comment: *Besides stating that "development is prohibited in the Core unless a hardship waiver is obtained," it should also be noted that actions in the Core that meet the definition of non-development as per ECL §57-0107.13 or, as per ECL §57-0107.13(x), are listed on a residential road front exemption list contained in the CLUP are also permitted to occur in the Core. (G-76)*

Response: The comment is acknowledged and the point that not all development is prohibited in the Core is understood. .

Comment: *PBC's should be PBCs. (G-77)*

Response: The comment is acknowledged, the document will be updated to reflect the change as requested.

Comment: *How many credits are currently available and how many will be created with the proposed expansion of the Core Preservation area? (K-5)*

Response: The Pine Barrens Credit Clearinghouse maintains data on credits. The Management Plan estimates approximately 135 Pine Barrens Credits will be generated based on the expansion of the Pine Barrens Core Preservation Area. The actual number of PBCs will be determined by the Pine Barrens Credit and Clearinghouse.

Comment: *Are there sufficient receiving sites to maintain the required 1-1 ratio required by the original Pine Barrens Plan? (K-6)*

Response: Based on the analysis of existing PBCs and current ROD receiving sites (A-1/A-2 residentially zoned lands), the Town of Brookhaven finds that pursuant to Town Code Article XXXVII, there are currently sufficient parcels or premises located within the designated receiving districts to maintain compliance with the Long Island Pine Barrens Protection Act (see Appendix O in this FGEIS). As the expanded Pine Barrens Area becomes effective the Town will take appropriate measures to remain in compliance, as necessary.

Comment: *The credit multiplier contained within the recently adopted MF code provides a developer with five (5) additional units for every single Pine Barrens credit purchased. How will this multiplier impact the absorption of Pine Barrens credits? (K-7)*

Response: Any application for a change of zone to MF Residence will require PBC redemption for an increase in density, therefore, it is anticipated that the amended MF code will have a positive effect on the redemption of Pine Barrens Credits.

This EIS is being prepared in conjunction with the Carmans River Conservation and Management Plan. The adopted Multi-Family Zoning Code amendment is a separate action which underwent its own SEQRA review. The Management Plan anticipates the creation of 135 PBCs. The absorption of all of the previously existing PBCs is not relevant to the Management Plan in relation to the MF Zoning Code. However it should also be noted that the comment made regarding credit redemption is factually incorrect.

Comment: *Will it attract credits from Riverhead and Southampton based upon the increased value of a single credit when used in conjunction with the development of multifamily housing? (K-8)*

Response: Pursuant to the Pine Barrens Central Land Use Plan, Chapter 6 Section 6.4.1.1: Pine Barrens Credits generated in any area in the Central Pine Barrens within any town shall be redeemable for any as of right Pine Barrens Credit uses in each respective town as described in this Plan subject only to the restrictions expressed herein.

Comment: *The Plan recommends excluding the RB Industrial Park from the expanded Compatible Growth Area (CGA) regulatory boundary as it "was designed to comply with the current Pine Barrens Standards ... " If the industrial park is already in compliance with the CGA standards it would seem logical that it be included, not excluded, from the proposed expansion of the CGA. (K-14)*

Response: The comment is acknowledged. However, the project was approved under unique circumstances as a clustered industrial subdivision. As a result the overall clustered subdivision project, meets the standards for development as required by the Central Pine Barrens and Brookhaven Town Code for development within the Compatible Growth Area. On an individual lot development basis, however, the project may not conform to the Pine Barrens standards. Therefore, in order to preserve the original intent of the Brookhaven Town Planning Board subdivision approval of this project, it was recommended for exemption from the expanded Compatible Growth Area of the Central Pine Barrens.

Comment: *I've owned and operated a -- a business that actually borders the Lower Lake in Yaphank for the past 45 years. And over those 45 years, we have had to naturally expand and do some building and things like that, in order to keep up with competition, which is normal for any business. It's 24 acres. Part of the property is -- is probably over a third of a mile from the River, because it's a very long and narrow*

property. So my question is as a businessman who definitely wants to stay in business after 45 years, what would happen -- what will happen to people who are in business, who need to perhaps build something, or expand in some manner, or some way, shape or form? Who -- who makes that decision and -- and who -- who do I see? (N-32)

Response: Brookhaven Town Code, Section §85-445 A (c), defines Non-development as follows:

Without limitation, the maintenance, renewal, replacement, reconstruction, improvement, or alteration of any existing structure or additions to an existing residence or residential property owned by an association formed for the common interest in real property. As a result improvements to an existing use such as a day care use in a residential zoning district may be permitted.

The Town Code also provides for the following:

§85-446 A (2) Hardship exemption: Applicants may seek hardship exemptions from the Commission as provided for in Article 57 of the Environmental Conservation Law for those uses or activities which are otherwise prohibited.

Therefore, in the event that it is determined that a proposed expansion or addition is not permitted or does not meet the requirements of the Pine Barrens or Town Code, a Hardship exemption may be requested from the Central Pine Barrens Joint Planning and Policy Commission.

Comment: *I am very much in favor of community-based planning. I know all of you -- many of you are strongly in favor of community-based planning. And any development rights that get generated, if there's sending zones, that's -- that's done. And that should be easy. But the receiving areas, wherever we have a receiving area, it should be consistent with a community-based planning process. And so I think that that's really where I would like to see your recommendation, that the Plan should strongly recommend that any -- any community where they are going to be receiving, you know, one of those credits, it should be part and be consistent of their Plan within the community-based program -- on community-based plan within the system, the planning process. (N-34)*

Response: The comment is acknowledged. The Town of Brookhaven has played an active role in the adoption of community-based land use plans throughout the Town. To date the Town Board has adopted six community-based land use plans covering seventeen distinct hamlets. Community-based land used plans that fall within the Central Pine Barrens must (and do) take into consideration the requirements of the Brookhaven Town Code and the Central Pine Barrens Comprehensive Land Use Plan.

2.2.2 Acquisition Program (AP)

Comment: *Where are the funds coming from to purchase lands for open space?*
(B-4) (C-1)

Response: Funds for the purchase of Open Space will come from several sources. First, the Town Board has re-allocated two million dollars of capital budget funds for initial acquisitions within the Carmans River watershed. Furthermore, the Town Board has adopted a change to the Town Code which subjects approved change-of-zone applications to a “Land Use Intensification Mitigation Fee” (Chapter 85-33.1 of the Town Code) to be dedicated to the Town’s Joseph Macchia Environmental Preservation Capital Reserve Fund for open space acquisitions. To leverage town funds the Town will continue to partner with Suffolk County and New York State as it has done in the past regarding many land acquisition projects situated in the Carmans River watershed.

Additionally, the Town of Brookhaven has proposed \$10 million for open space funding in the 2014 Capital Budget, which includes \$6 million for purchases of property in the Carmans River watershed.

Comment: *Funds should first be used for other, unprotected land in the Watershed and in the rest of Town, rather than duplicating protection of land put into the Core.*
(B-5)

Response: The Acquisition Prioritization Framework in the Management Plan (please see Appendix D in the Management Plan) provides the framework for prioritizing potential acquisitions and a property’s location is one of four determining criteria that are weighed. The Management Plan provides for the acquisition of properties within the watershed, and has recommended that certain parcels receive “Priority” acquisition; other properties are shown as “Secondary” acquisition, as shown in Figure 28. It is noted that acquisition of properties in the Core Preservation Area will ensure public access as well as reduce/eliminate the number of Pine Barrens Credits that will be available for use elsewhere in the Town.

Comment: *The Acquisition Prioritization Framework (Appendix D) needs adjustments to more accurately reflect its intent.* (B-6)

Response: The Acquisition Prioritization Framework gives equal weight to four basic criteria: size, position in the watershed, landscape context, and intrinsic resources and provides an explanation of each criteria. While there are many different ways to rank properties, given all of their intrinsic and external values, the framework followed by the town was thought to be an appropriate and accurate

approach for assessing importance of, and assigning priority to, open space candidate properties.

Comment: *The specific parcels proposed for acquisition which are depicted in Figure 28 should be listed by name, size, location and tax map number in the body of this section to ensure there is clear understanding of these sites and their relative priorities. (G-32)*

Response: The comment is acknowledged and the information has been included in the Plan's Appendices.

Comment: *Page 8 of the DGEIS states that the Carmans Plan "... provides for ranking parcels as either Primary or Secondary acquisition rankings." However, these have not been discussed or listed in this section of the Carmans Plan. Accordingly, the Carmans Plan should discuss and address this matter. (G-33)*

Response: The ranking of primary and secondary for open space properties is meant to reflect those in the top half of the numerical ranking list (primary) and those in the bottom half of the numerical ranking list (secondary). The Management Plan has been revised to include this language.

Comment: *In Recommendation 2A on pages 174- 175 additional language should be added to emphasize that the Town will utilize acquisition as the key method to protect open space in the Carmans River Watershed. The DGEIS goes on to state that " The goal of the PBC redemption for the Town of Brookhaven continues to be 75% acquisition of the lands within the Core Preservation Area." Accordingly, that goal should be restated here as well. (G-34)*

Response: The recommended language has been added to the Carmans River Conservation and Management Plan.

Comment: *The last paragraph in the introduction to this section on page 174 discusses preservation of open space through the Joseph Macchia Environmental Reserve Fund. The Pine Barrens Credit Program, based on Chapter 6 of the CLUP, is regional and should be the priority TDR program for areas both inside and outside of the Central Pine Barrens. (G-35)*

Response: The Town of Brookhaven agrees and this comment is acknowledged.

Comment: *The last paragraph on page 174 does not indicate whether or not the Macchia fund is dedicated solely to the purchase of open space in the Carmans River watershed. The purchase of PBCs, especially for rezoning and development projects in the CGA, should be prioritized over applying mitigation fees under the Town's Land Use Intensification Mitigation fee. (G-36)*

Response: The Macchia Fund is used to acquire open space properties throughout the Town. However, with the adoption of the Carmans River Conservation and Management Plan by the Town Board open space acquisitions within the Carmans River watershed will become a priority. With regard to the purchase of PBCs their purchase will be required for Multi-family projects pursuant to the recently adopted town code amendment relating to MF zoning. PBC purchase is not a requirement for other change-of-zones undertaken for which the "Land Use Intensification Mitigation Fee" schedule applies.

Comment: *New public land acquisitions and existing Town holdings should be dedicated to the Town Nature Preserve system to ensure protection of sensitive habitats and resources. (G-55)*

Response: The Management Plan has been revised to include this in the recommendations section of the Plan.

Comment: *Discuss how the financial resources collected in the Macchia Fund will benefit the Carmans Plan. For example, will the Macchia Funds be used exclusively for purchase of open space in the Carmans River Watershed or will the Macchia Fund be prioritized for Carmans River Watershed open space acquisitions. If not, the document should discuss how the Macchia Fund may impact the credit program. (G-78)*

Response: The financial resources of the Macchia Fund will directly benefit the Carmans River and fulfillment of the Carmans River Conservation and Management Plan by providing funds for the acquisition of open space parcels, one of the most effective techniques available to protect the ecological integrity of the river. As currently submitted in the Town of Brookhaven Law Department's 2014 Capital budget, \$10 million is provided in additional open space funding town wide with \$6 million earmarked for acquisitions within the watershed of the river, reflecting the fact the Carmans River watershed is a Town open space priority. To the extent open space funds are used to purchase parcels within the watershed that are also within the Core Preservation Area of the Pine Barrens the Macchia Fund can play a role in reducing the amount of credits that will be generated from the Core Area Expansion.

Comment: *To assist in achieving the various recommendations above, we recommend that the following parcels of land be added to the acquisition list so that they can be eligible for protection. Collectively, they represent an enhancement of the preservation area that would add still more recreational opportunities to this plan and help reduce future pollution from development in the watershed of the Carmans River: (H-2)*

- *Rocky Point School (forested tract)*
- *Sam Glass Property*
- *Sandy Hills Property*
- *Farmland- a property the county currently owns the development rights to but should farming of the land stop, acquisition by the town would be appropriate /necessary and the site should be restored*
- *Middle Island Golf Course*
- *Southaven County Park West-*
- *Parcel A DPW- appears to have been moved into CGA but should be in core*
- *Silveri Property*
- *Old File Map lands*
- *Johnston Property*

Response: The comment is acknowledged. Although the properties listed may or may not be a part of the Carmans River Conservation and Management Plan, it does not preclude the Town Board from acquiring these properties in the future, subject to any and all rules and regulations.

Comment: *There is no mention of funding for any of the recommendations contained within the Plan. The Plan indicates that it is the intent of the Town to acquire through acquisition seventy-five percent (75%) of the new development rights or credits created through the expansion of the Core Preservation area of the Pine Barrens. What is the estimated cost of the acquisition of seventy-five percent (75%) of the new credits and how much funding will the Town commit to achieve this goal? (K-4)*

Response: Funds for the purchase of Open Space will come from several sources. First, the Town Board has re-allocated two million dollars of capital budget funds for initial acquisitions within the Carmans River watershed. Furthermore, the Town Board has adopted a change to the Town Code which subjects approved change-of-zone applications to a “Land Use Intensification Mitigation Fee” (Chapter 85-33.1 of the Town Code) to be dedicated to the Town’s Joseph Macchia Environmental Preservation Capital Reserve Fund for open space acquisitions. To leverage town funds the Town will continue to partner with Suffolk County and New York State as it has done in the past regarding many land acquisition projects situated in the Carmans River watershed. Sources to fund the Plan’s other recommendations will be identified subsequent to the Town’s adoption of the Plan.

Additionally, the Town of Brookhaven has proposed \$10 million for open space funding in the 2014 Capital Budget, which includes \$6 million for purchases of property in the Carmans River watershed.

Comment: *There is no mention of funding for any of the Management Plan Recommendations or mitigation measures including funding for acquisitions -a critical component of the Town's strategy. The Plan should contain a commitment to fund the various recommendations designed to achieve the stated water quality goals. In fact, Chapter 5: Management Plan Recommendations, specifically states that the implementation of the Plan's recommendations "is subject to the availability of funds and possible approval by the Town Board." Since, if adopted, this Plan will be the Town Board's Plan, it is critical that the commitment to fund its recommendations be included as a component of the Plan. (K-20)*

Response: The comment is acknowledged. Sources to fund the Plan's recommendations will be identified subsequent to the Town's adoption of the Plan. Funds for the purchase of Open Space will come from several sources. First, the Town Board has re-allocated two million dollars of capital budget funds for initial acquisitions within the Carmans River watershed. Furthermore, the Town Board has adopted a change to the Town Code which subjects approved Change-of-Zone applications to a "Land Use Intensification Mitigation Fee" (Chapter 85-33.1 of the Town Code) to be dedicated to the Town's Joseph Macchia Environmental Preservation Capital Reserve Fund for open space acquisitions. To leverage town funds the Town will continue to partner with Suffolk County and New York State as it has done in the past regarding many land acquisition projects situated in the Carmans River watershed.

Additionally, the Town of Brookhaven has proposed \$10 million for open space funding in the 2014 Capital Budget, which includes \$6 million for purchases of property in the Carmans River watershed.

Comment: *I would also request that the Town to improve the proposed Acquisition Prioritization Framework (Appendix D). I encourage you to utilize the improvements to Appendix D suggested by Jim Gleason as part of the EMPOA Board of Directors' submission on the Carman's River Plan. (M-6)*

Response: As this comment does not make a specific recommendation on how to improve the framework a previously made response is repeated here: "The Acquisition Prioritization Framework gives equal weight to four basic criteria: size, position in the watershed, landscape context, and intrinsic resources and provides an explanation of each criteria. While there are many different ways to rank properties, given all of their intrinsic and external values, the framework followed by the town was thought to be an appropriate and accurate approach for assessing importance of, and assigning priority to, open space candidate properties".

Comment: *I encourage the Town to be proactive on open space acquisitions; including the possibility of borrowing against future revenues. (M-7)*

Response: The comments are acknowledged and appreciated. The Town of Brookhaven is proactive regarding open space purchases as evidenced both by past history and the identification and prioritization of existing properties in the Management Plan. The Town Board will assess the merits of borrowing against future revenues to provide an upfront funding stream for open space purchases.

2.2.3 Land Use and Zoning Questions (LZ)

Comment: *Various parcels in the Watershed are to be upzoned. There should not be ways of circumventing the upzonings. (B-7)*

Response: Property owners are afforded the right to make an application to the Town of Brookhaven Town Board to change the zoning of their land. The Town Board, the Board can deny such application and also has the authority to *Elect Not to Consider* an application for change of zone. Additionally, based on the Future Actions section of this Final Generic Environmental Impact Statement additional SEQRA would be required for those actions that are not in conformance with the Management Plan. A supplement to the final EIS must be prepared if the subsequent proposed action is not in conformance with the goals and the underlying intent of the Carmans River Conservation and Management Plan.

Comment: *The proposed Plan includes weak language about the Zoning Board of Appeals and the goals and recommendations of the plan. More is needed. (B-8) (M-4)*

Response: The Zoning Board of Appeals jurisdiction is subject to New York State Town Law and with broad discretion and authority under state laws, and therefore, cannot be limited by the Plan. However, the Zoning Board of Appeals holds public hearings on applications and can be provided with testimony regarding applications that may impact the Carmans River.

Comment: *The proposed plan says that parcels subject to previous legal settlements and stipulations are not subject to the plan. This at least needs to be clarified and (depending on its intended meaning) probably should be eliminated, for it has the potential for both confusion and damage to the plan. (B-9) (C-5) (K-3)*

Response: Parcels that are involved in on-going litigation are not subject to the recommendations of this Management Plan to prevent the Town of Brookhaven from being in conflict with relevant Court Decisions and Orders in regard to the development of such parcels.

Comment: *Regarding the proposed exemptions on parcels currently involved in legal settlements or stipulations; in what hamlets are the outstanding credits going to redeemed? The proposed plan language on what settlements are intended to achieve is not really clear. (C-6)*

Response: Parcels that are involved in on-going litigation are not subject to the recommendations of this Management Plan to prevent the Town of Brookhaven from

being in conflict with relevant Court Decisions and Orders in regard to the development of such parcels.

Comment: *The document does not include other significant regulations which affect and may restrict land use. These include New York State Pollution Discharge Elimination System (SPDES), SCDHS Article 6 requirements and NYSDEC ECL Article 11 statute and regulations regarding endangered, threatened and special concern species. (G-11)*

Response: The comment is acknowledged. The Management Plan has been revised accordingly.

Comment: *Recommendation A on page 175 references Figure 29 and recommends rezoning parcels in the Management Plan Area. The Carmans Plan should clarify whether the zone change becomes effective immediately, or if there is a "grace" period granted to the owner during which he or she can build in accordance with the zoning requirements in existence prior to the upzoning (e.g., three years has been applied in other Towns). (G-37)*

Response: The Plan does not recommend or offer a "grace period" for the change of zone to become effective.

Comment: *For Recommendations B and C the Carmans Plan should analyze the proposed rezoning actions as they relate to conformance with the CLUP. Any rezoning must be consistent with the CLUP and not adversely impact the provisions of the CLUP. (G-38)*

Response: The comment is acknowledged. The rezoning recommendations are consistent with the goals and recommendations of the CLUP, as well as consistent with other adopted land use plans and accepted studies including: 1996 Town of Brookhaven Comprehensive Land Use Plan; Long Island Regional Planning Board Long Island Comprehensive Waste Water Treatment Management Plan (208 Study) and the Special Groundwater Protection Area Project (205J). The recommended rezoning will be further analyzed during the implementation phases of this Management Plan.

Comment: *The Plan should evaluate how it is consistent with and how it impacts or conflicts with the Town's adopted Final 2006 Middle Country Road Land Use Plan for Coram, Middle Island and Ridge(MCRLUP) and any other relevant adopted land use plans in the Carmans River Management Plan Area. In accordance with Section 617.9(a)(7) of the SEQRA regulations, a Supplemental EIS may be required when specific adverse environmental impacts not addressed in the MCRLUP's EIS arise*

from newly discovered information. The MCRLUP's recommendations on zone changes and proposals to increase land use density or intensity on certain parcels in the now delineated Carmans River Management Plan Area may need to be re-examined for conformance and amended accordingly. (G-50)

Response: The comment is acknowledged. Chapter 3 on page 69 of the Management Plan examines the previously adopted plans and accepted studies. However, the comment is correct. The Management Plan has been revised to include a summary of the MCRLUP recommendations in Chapter 3, Past Plans.

Comment: *Any community-wide rezoning actions must conform to the CLUP. Analyze any proposed rezoning actions to confirm that they are no less restrictive than what is permitted under current zoning. For example, no rezoning actions can occur which will allow the Vegetation Clearance Limit standard to be exceeded or which allow clearing beyond the current CLUP limit. Town regulations may be more restrictive, but cannot be less restrictive than the CLUP. A hamlet-wide or "management plan area-wide" rezoning must include an analysis of conformance with existing regulations. (G-79)*

Response: The comment is acknowledged. However, as indicated on page 83 and page 175 of the Management Plan, the recommended rezoning are intended to reduce overall density, population, clearing, and associated development within the Carmans River Corridor, thereby making the future development patterns more restrictive than those provided for in the CLUP.

Comment: *Please clarify if the "Total" column refers to public and private land in each zoning district A2, A5, and A10. The table includes the "Private" land in each district, so can it be assumed that the remainder is the amount of "Public" land in each district? (G-80)*

Response: The table provided in page 59, Section 3.1.6.1. of the DGEIS offers the total acreage and number of parcels proposed to be rezoned to each zoning district. The table further offers the acreage and number of parcels of privately owned lands proposed to be rezoned to each zoning district. The remainder or difference between the total number and the privately owned lands are in public ownership.

Comment: *Discuss potential impacts of proposed rezoning on existing Receiving Areas and the credit program. (G-81)*

Response: The recommended zoning as proposed in the Management Plan is not anticipated to have any impacts on existing receiving areas or the PBC program. The recommendation on page 175, Recommendation 3-B, to rezone privately owned land

to A-2 Residential will allow those lands to remain as potential receiving sites pursuant to Town Code.

Comment: *We also recommend that the planning and implementation process intentionally set new performance standards to guide any new development or redevelopment in the 100 year groundwater zone of influence to the river. This would contribute to reducing nitrogen and other pollutants. A series of proposed zoning actions outlined in the plan would assist, in this regard. (H-3)*

Response: The comment is acknowledged.

Comment: *The Plan proposes to regulate development within the 0-2 and 2-5 groundwater time travel zones adjacent to the Carmans River. According to data within the Plan, this regulatory zone accounts for approximately 35% of the river's base flow and 6,914 acres of the 19,422 total acres within the 100-year travel zone. How will this limited percentage of the river's base flow be sufficient to meet the proposed water quality goals contained within the Plan? (K-9)*

Response: The time of travel zones developed by CDM for the Management Plan provided the guidance for the study and the starting point for the recommendations. The Management Plan recommendations regulate development based on the time of travel zones with the most restrictive development regulations within the 0-2 and 2-5 groundwater time travel zones (Pine Barrens Core expansion) and the less restrictive development regulations within the 100-year travel zone (zone change recommendations). Utilizing this approach offered the greatest protections to the waterway.

Comment: *Publically-owned properties are not subject to local zoning and the rezoning of these properties will add little to the protection of the River or its watershed. A better approach would involve all levels of government agreeing to limit the use of their respective properties consistent with the Plan's water protection and restoration goals. (K-15)*

Response: The comment is acknowledged.

Comment: *In light of government's recent penchant for selling off land as one-shot revenue deals, these publically-owned properties should also be encumbered with a declaration of covenants and restrictions in order to ensure that potential future owners would be similarly restricted in their use of these critical parcels. (K-16)*

Response: The comment is acknowledged. However, the Town of Brookhaven cannot encumber properties with restrictive covenants and restrictions without

consent of the property owner. New York State laws regarding the sale of municipal lands dedicated or purchased by a municipality for open space purposes limit that municipality's ability in the use of these lands as well as the potential sale of the lands to private owners.

Comment: *We continue to note the extraordinary and continued omission of any scientific basis for the major premises of the Plan. This includes, but is not restricted to, justification for any increased density, either in the amorphously-designated receiving areas or any increase above the legally and originally-designated 1:1 transfer of credit units. (L-3)*

Response: The comment is acknowledged. The Management Plan relies on the adopted Central Pine Barrens Comprehensive Land Use Plan (CLUP) as a basis for any increased density outside of the Core preservation Area. The Town of Brookhaven's Pine Barrens Credit Program is outlined in Sections 6.4.1.1 and 6.4.2.1 of the CLUP. The Management Plan references the CLUP in Chapters 3, 4 and 5. It should also be noted that Section 6.4.2.4.3 of the CLUP specifically states:

It is the intent of the Town of Brookhaven to utilize transfers of development rights in a manner which will allow for the preservation of the Core Preservation Area without a significant negative environmental or economic impact on the rest of the Town.

Comment: *It seems to be somewhat of a disparaged treatment when we look at all of these various development projects that are truly surrounding Yaphank. We are, not getting the answers to the questions as to why these particular projects have been carved of this Plan. I'm talking specifically about: Enchanted Forest, which is located 1,300 feet from the surface waters of the Carmans River; I'm talking about the Meadows at Yaphank, which is some 1,700 feet; Silver Corporate Park, which is 1,400 feet. These are massive projects of regional significance. And how are they allowing these projects to move forward knowing going to preserve. (N-18)*

Response: The comment is acknowledged. Certain development projects have been previously approved within the study area, prior to the acceptance of the Management Plan. The Management Plan offers guidance for future development and offers recommendations to minimize future development patterns that could have potential environmental impacts on the waterway. Development projects that have been previously approved and have gone through the appropriate SEQRA review have been examined for potential environmental impacts and appropriate mitigation measures have been applied.

Comment: *My major concern is that in order for this Plan to pass, we had to change the multi-family code. Now, the Code presents something which will be here forever. Hopefully, after the Plan is approved with the pre-requisite of the multiple family code, that you will change the Code again back to something similar, that will keep the population down in our Town. (N-20)*

Response: The comment is acknowledged.

Comment: *One other concern is the – just north of the Carmans River Lakes, upper lakes are a series of lakes and mining of sand, Roanoke and further up. These were not put in any of the core of this Plan. And certainly they're digging deep enough to go into the magnified layer there. (N-21)*

Response: The area referred to by the commentator consists of the Roanoke Sand Mine that is currently regulated by the New York State Department of Environmental Conservation (DEC). These areas have also been fully examined and future lands uses proposed as a result of the adopted Middle Country Road Land Use Plan for Coram, Middle Island and Ridge (MCRLUP). The MCRLUP provides specific recommendations regarding the Roanoke site along with the other key environmentally sensitive areas. The Management Plan has been amended to include the MCRLUP in Chapter 4, Past Plans section.

Comment: *Will we have controlled nitrogen? And these are serious concerns for my family down in the future for my children, whether they want to continue to do this with this kind of thing hanging over their heads. What's going to happen next year? I would like it addressed. It's not a small piece. It's 50 acres of land. And I'd like to know where we're going and what's going to happen to it. (N-22)*

Response: The commentator refers to a specific parcel of land along Yaphank Avenue. The parcel is currently a 50 acre farm. Chapter 5 of the Management Plan provides specific recommendations with regards to the future land use of this property including, farmland and farmland rights issues, potential secondary acquisition and possible upzoning. Each of these recommendations are supported by the Management Plan to achieve a goal to reduce nitrate loading, reduce overall development potential and reduce population in the Carmans River corridor.

Comment: *The members of the Group who own the property were concerned that we are being singled out for two-acre zoning. The owners feel that it will affect its value once it is upzoned to two acres. And I'm just here to relay their concerns to all of you. (N-25)*

Response: The comment is acknowledged.

Comment: *What are the ultimate intentions for the parcels known as 275A and 273 East Main Street? Does the Town intend to upzone, acquire and clean up these sites?*
(N-26)

Response: The parcels known as 275A and 273 East Main Street are shown in the Management Plan in Figure 29 as proposed to be rezoned to A-2 Residential. The Management Plan also recommends these sites as Secondary Acquisition in Figure 28.

2.2.4 Wild Scenic Recreation Rivers (WSR)

Comment: *Item# 4 in the discussion of Recreation River Restriction on page 133 incorrectly states that Commercial structures are limited to light industrial..." All commercial and industrial uses are prohibited in Recreational River areas unless the use comprises " Retail or rental facilities directly associated with river recreation." This should be corrected. (G-10)*

Response: The comment is acknowledged and the language has been changed in the Management Plan from, "Commercial structures are limited to light industrial and must be sited in those areas where there is sufficient transportation access and the use of the site is consistent with the surrounding land uses." to read "Commercial uses are limited to uses involving the offer for sale or rental, sale, rental or distribution of goods, services or commodities or the provision of recreation facilities or activities for a fee, but not including the manufacturing of goods or commodities and must be sited in those areas where there is sufficient transportation access and the use of the site is consistent with the surrounding land uses."

Comment: *An update to the Management Plan recommendation should also include the creation, perhaps, of a new zoning district for a four-acre residential district to comply with the scenic section of the Wild, Scenic Recreation Rivers Act. (N-1)*

Response: The comment is acknowledged and this option was considered. Upon analysis, it was determined that the majority of properties within the scenic sections designated by the Wild, Scenic, Recreation Rivers Act associated with the Carmans River are preserved in public ownership and cannot be developed or are currently developed. Furthermore, with the exception of two small commercial zoned areas and a residential one acre zoned area, both south of Main Street and Mill Road in Yaphank and previously developed, the remaining properties are zoned for five and ten acre residential development. It was concluded that a new four-acre residential district in the Town would be redundant and not provide additional protections over and above that of the Wild, Scenic, and Recreation Rivers Act.

2.2.5 Water Quality (WQ)

Comment: *The numeric standards for water quality and the ways of measuring them need fixing. This should be done in an effective way and on a scientific basis. (B-10)*

Response: The comment is acknowledged and the Town of Brookhaven agrees. The Town plans to consult with the United States Geological Survey office located in Coram for expertise on water quality sampling. The existing literature has already been reviewed for information on numeric standards for water quality. Information on the subject compiled by Marilyn Jordan, Ph.D., and information from the NYSDEC and SCDHS have been used to develop target goals for water quality. The NYSDEC has published tables indicating they expect to issue numeric nutrient standards for phosphorus in 2015 and for nitrogen sometime after that. The Town will remain involved and informed regarding the NYSDEC's development of nutrient standards and will present the information to the Carmans River Management Plan Performance Committee. The Town has contacted the USGS for water quality sampling on the Carmans and expects to work closely with the personnel at USGS to develop a water quality sampling program for the Carmans that uses appropriate methodologies to accurately measure water quality.

Comment: *The title of this section should be changed to "Groundwater Quality: Nitrate and other Contaminants" as the last paragraph on page 100 also discusses spills and other contaminants besides nitrate. (G-2)*

Response: The comment is acknowledged. The Management Plan has been revised accordingly.

Comment: *The second sentence in the last paragraph on page 110 discusses a maximum nitrate concentration of 8.3 mg/l and appears to attribute this to the CDM report but this was actually derived from data collected by the USGS gauging station south of the LIRR in Yaphank. This discrepancy should be corrected. Furthermore, an entire paragraph on the USGS station and discussion of some of its data is found on page 33 of the prior Carmans River Watershed Protection and Management Plan dated March 2012 under the subsection "Long term trends in nitrogen" and should also be inserted here in the new document. (G-6)*

Response: The comment is acknowledged. The Management Plan has been revised. The attribution has been corrected and discussion of data from page 33 of the prior Plan has been inserted.

Comment: *This section, on pages 183—185, should specify the existing water quality at various points in the River to be used as the baseline for a "non-degradation" standard. The water quality measurements should be taken currently to establish a baseline against which future monitoring measurements can be compared to allow quantitative measurement of potential water quality impacts over time. (G-42)*

Response: The value of sampling for water quality is primarily to be able to identify trends. The exception to this would be to address specific point releases of contaminants such as leaking underground storage tanks. The baseline levels of contaminants will be established by review of existing data, and consultation with experts. It is likely that the baseline will incorporate data from multiple sampling sites collected over a time period of years or decades. In addition to sampling for chemical contaminants it is recommended in the scientific literature that sampling of benthic invertebrates occur in order to document water quality. The diversity of the benthic invertebrate population is considered to be one of the best measures of water quality because a shift in species assemblages and/or a decrease in diversity is often associated with increases in contaminants; these increases may or may not be recorded in routine water quality sampling because the large number of known contaminants and potential contaminants makes analysis for each and every potential contaminant impossible. Further, contaminants may move through a system such as the Carmans in a matter of days; an event such as this would likely be missed unless the timing of sample collection coincided with the presence of the contaminant. However, the benthic invertebrates would likely indicate the presence of a contaminant over longer time periods. There are also unknown synergistic (two or more contaminants interacting to stress components of an ecosystem beyond the effects of either contaminant alone) effects of contaminants that may be reflected by benthic invertebrate populations that would go undetected by laboratory analysis of samples.

It is likely that three or more baseline standards will be necessary; one for free flowing portions of the river, a second for the lakes that are flow-through waterbodies of the river, and a third for the tidal portions of the river. For example, the State of Florida has recently completed development of numeric nutrient standards for all state waterbodies. One of the results of the approximately \$20 million spent on research and development of standards for all waterbodies in Florida was the need for separate standards for lakes, rivers, and estuaries.

In conclusion, the baseline standards against which degradation versus restoration will be measured will require further research and refinement. This will be completed by reviewing existing data with experts in the field, identifying where and at what time of year samples need to be collected, the methodology of collection and analysis, and the need for separate baselines for river, lake and tidal sections.

Comment: *Recommendation A on page 184, clarify that the 1.27 mg/l total nitrogen and 1.0 mg/l nitrate nitrogen are the non-degradation goal standards. Please specify the source of information from which these concentrations are derived. (G-43)*

Response: The source of the information is a memorandum dated January 17, 2011 from Marilyn J. Jordan Ph.D., Senior Conservation Scientist for The Nature Conservancy on Long Island to Lee Koppelman, Ph.D., Chair of the Carmans River Study Group. The memorandum is being included in the Appendices section of the Management Plan and the FGEIS. The following is from that memorandum:

Trying to select a fixed overall “standard” upper concentration limit for nitrogen in Carmans River water is like trying to hit a moving target provided by different investigators for different river locations for different seasons in different years. I decided to use primarily the USGS data set collected at the Yaphank stream gage, which provides the greatest number of samples for all seasons over the longest time period. I used data collected in the 1990s as the basis for current N concentrations, and data collected prior to 1980 as a target restoration standard. I used data from unfiltered total N samples as they seemed more biologically meaningful than filtered samples, and because there were many more unfiltered samples taken (171) than unfiltered (just 40, and the earliest was in 1978). For nitrate-N I chose filtered samples for the same reasons; there were 172 filtered samples and 129 unfiltered (earliest in 1973).

Comment: *In Recommendation B on page 184, identify the water quality sample data sets which will be used to measure water quality in any Carmans River segment, and specify over what time period the “mean” will be calculated. (G-44)*

Response: Existing data sets have been compiled by Marilyn J. Jordan Ph.D., Senior Conservation Scientist for The Nature Conservancy on Long Island. These data sets have been reviewed and a recommendation on a baseline non-degradation standard of 1.27 mg/l of total nitrogen and 1.0 mg/l of nitrate nitrogen has been recommended in the Carmans River Conservation and Management Plan as a standard for the entire river. The data sets were from a variety of sources; please see the response immediately prior for details on how the baselines were developed.

Based on recent scientific literature it is likely that the single baseline standard recommendation will be refined to include recommendations for the free flowing portion of the river, the lakes within the river system, and the tidal portion of the river. These standards may be further refined when New York State adopts numeric nutrient standards. If New York State develops standards more stringent than those included in this plan the more stringent standard will supersede the standards in the Plan. An overall sampling plan intended to document trends in water quality is being developed in conjunction with the USGS and other agencies with the necessary expertise. A timeframe for calculating a “mean” that will reflect trends in water

quality without being unduly influenced by natural and/or seasonal variations will be developed. The trends will then be compared with the baselines that are being recommended.

Comment: *State that implementation of other Recommendations 1 through 8 and 10 through 18 are the measures to achieve success—maintenance of water quality at or below the 1.27 mg/1 total nitrogen goal and at or below the 1.0 mg/1 nitrate nitrogen goal. (G-45)*

Response: Implementation of Recommendations 1 through 8 and 10 through 18 are the measures to successfully achieve the non-degradation standard at or below the 1.27 mg/1 total nitrogen goal and at or below the 1.0 mg/1 nitrate nitrogen goal. Additional measures of success may be identified as additional data and technologies become available.

Comment: *The Plan should identify funding for any proposed sampling and monitoring program; identify Town Departments, Town staff and other agencies who will perform sampling, manage data collection efforts and analyze the data; identify compliance and enforcement reporting measures to be implemented in response to detection of a water quality impact; how to rectify deviations from the standard; identify penalties and how to identify and cite responsible parties. If measurements from samples are not consistent with the goals established in the Plan, describe the consequences, public notifications (if any) and remediation measures to be instituted to ensure goals will be met within a specified timeframe. (G-46)*

Response: The Town of Brookhaven proposes allocating \$10,000 for sampling in 2014. The Town is developing a sampling plan in consultation with the USGS and Town Division of Environmental Protection. It is likely that the USGS will collect and analyze samples. Other agencies including the Suffolk County Department of Health Services, the Suffolk County Water Authority, and the New York State Department of Environmental Conservation have routinely documented the water quality of the Carmans River, and the groundwater contributing area. Existing laws govern the discharge of pollutants at point sources, and identify penalties for violations. The Town intends to work within existing programs such as the State Pollutant Discharge Elimination System (SPDES), the Clean Water Act, and Suffolk County Sanitary Code to address sources of pollution. No public notification system is currently planned, however data collected to document water quality within the Carmans and any reports, summaries, conclusions etc. derived from those materials will be available to the public.

Comment: *The water quality goal of "non-degradation" would appear to nevertheless permit a twenty percent (20%) decline in water quality prior to the commencement of a study. Please clarify the intent of this recommendation and how the water quality goal of non-degradation will be enforced. (K-18)*

Response: The non-degradation goal was developed based on data collected in the 1990s, and the restoration goal was based on data from prior to 1980. The 20% cited in the comment is not intended to allow degradation of the River, rather it is to recognize that where yearly variations may occur in order to identify a trend 20% is considered outside normal variation and therefore indicative of the need for investigation and action.

Comment: *The Recommendations state that 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." This would seem to require that the Town adopt a less restrictive water quality standard in the event the State or EPA adopts a standard that is less restrictive than the Town's standard. (K-19)*

Response: The comment is acknowledged. The Management Plan will be revised to clarify that whichever is the more stringent standard will apply.

Comment: *There is no scientific, or attempt to determine the status of the watershed in terms of sustainability and carrying capacity – i.e. what's on the ground. By all measures of abundant data referred to in the Plan, this watershed is way beyond its carrying capacity. It is without a margin, for nitrogen as well as its many accompanying parameters. (L-4)*

Response: Determining the carrying capacity of the watershed is a goal of the Carmans River Conservation and Management Plan. The estimated carrying capacity will change depending on technology available for individual sanitary systems, sanitary systems that serve multiple residences and/or businesses and institutions, stormwater control projects and a host of other variables. The status of existing development and its projected impact on the Carmans River will be developed in order to refine the recommendations and to target specific geographic areas where carrying capacity is exceeded.

Comment: *The watershed was already approaching or surpassing its carrying capacity. The study also tells us in no uncertain terms what we must do now. (L-5)*

Response: The comment is acknowledged and the Town of Brookhaven agrees. It is this concern that has resulted in the drafting of the Management Plan. The

recommendations and goals of the plan are to enact measures that prevent further degradation of water quality and which also will improve water quality over the long term.

Comment: *We request that provisions be written into the Plan that any future work defining preservation of the watershed opens the door for inclusion of a complete, comprehensively-delineated watershed. (L-6)*

Response: The surface watershed and the ground watershed both contribute to the Carmans River flow. Groundwater contributes the majority of the flow. The boundary of the groundwater flow to the Carmans River changes as the level of the water table changes. For this reason, the boundary cannot be precisely delineated. The modeling that has been done for the development of this Management Plan and the development of the current Draft Suffolk County Comprehensive Water Resources Plan is accepted as the most accurate delineation available based on current data and technology.

Comment: *We have an accurate picture of what the water quality in the River is -- a more accurate picture, of what the water quality level is in the River right now. We have a restoration goal that John Turner spoke of, of about 1.0 part per million of nitrate-nitrogen in the River -- a non-degradation level of 1.0 part per million of nitrate-nitrogen in the River, and a restoration goal of 0.35 parts per million nitrate-nitrogen. That's scientifically defensible. It's based on work that has been published in the peer review literature that is out there now, that was done by the New York State Department of Environmental Conservation Bureau of Water Monitoring out of Albany; including some of the screenings they looked at were the Carmans River. So there's a good scientific basis for those goals. And I strongly hope that you will implement those in some sort of code that the Town will put forth, if this Plan or some version of it is accepted. (N-12)*

Response: The comment is acknowledged. It is the Town of Brookhaven's intent to use the best available data to implement non-degradation and restoration standards while at the same time gathering additional data to document the current status of water quality in the river, and to document and respond to changes as they occur over time.

Comment: *The Homestead Assist Act -- or the Homestead Assist Program, where we did a very robust educational program with homeowners on how to lower their nitrogen or their fertilizer use, and to make better use of watering methods, so that they weren't creating and introducing offenses to our storm water and -- and into our -- and into our surface and groundwater. I would like to see that type of program implemented as part of this Plan -- how to educate the public, so that those areas in the compatible growth area to especially those residents, should be educated on how*

to protect the waterway. Because it's all that great fertilizer -- fertilizer use on lawns, those green golf course lawns that we have, whenever it rains that -- those fertilizers are being washed into our storm water system. (N-30)

Response: Estimates vary on the amount of nitrogen that fertilizer contributes to groundwater, which in turn winds up in surface waters. However all estimates indicate that it is a significant source of nitrogen in ground and surface water. It is the intent of the Management Plan to enact the type of educational measures described in the comment above. In addition, and complimentary to the Plan are requirements that the Town of Brookhaven has under the Clean Water Act to educate residents Town-wide about the proper use of fertilizer and the impacts of misuse of fertilizer. Finally it is noted that through the Suffolk County Fertilizer Reduction initiative, enacted as Local Law No. 41-2007, the application of fertilizer was banned between November 1 and April 1 starting in 2008. New York State enacted a law prohibiting the use of fertilizer containing phosphorus on lawns and non-agricultural turf. The law went into effect January 1, 2012. These measures are expected to reduce nutrients associated with overuse of fertilizer in the Carmans watershed.

Comment: *I couldn't find specific recommendations for those homeowners, on how they would -- how they would affect that type of reduction. So this is why I'm suggesting that we look at the Homestead Assist Program that the Nature Conservancy had brought to me when I was a legislator. (N-31)*

Response: The Town of Brookhaven will make specific recommendations available to homeowners through its Clean Water Act program and through implementation of Plan recommendations. Clean Water Act program materials can be found on the Town of Brookhaven webpage specifically at:
<http://www.brookhaven.org/Departments/PlanningEnvironment/StormwaterManagementProgram.aspx>

2.2.6 Storm Water (SW)

Comment: *The last paragraph on page 101 indicates that the Town has mapped over 30 percent of its stormwater catch basins in the Management Plan Area and expected to complete the mapping of the remainder by the end of 2012. As it is now the middle of 2013, the status of the mapping of the remaining 70% of the catch basins should be determined and this section updated accordingly. (G-3)*

Response: The Town of Brookhaven has completed the mapping of stormwater infrastructure within the Management Plan Area. The Plan will be revised to reflect this.

Comment: *The last paragraph on page 101 indicates that interim mapping of stormwater infrastructure maintained by Suffolk County and NYSDOT is being conducted. This paragraph should state when this mapping effort is expected to be completed as well. (G-4)*

Response: Suffolk County has completed mapping County stormwater infrastructure and Under the Clean Water Act the NYSDOT is required to map all stormwater infrastructure by May 1, 2015. The Management Plan will be revised to reflect the anticipated completion date as no later than May 1, 2015.

Comment: *Pages 102 through 104 discuss the flooding situation along Middle Island Road north of Middle Country Road (State Route 25). This area was also discussed in the prior Carmans River Watershed Protection and Management Plan dated March 2012 on pages 36-37 of that document. Certain information in that discussion was not incorporated into the current plan and it is recommended that this be done. Additional information to be incorporated should include the statement that "Historical information appears to indicate that at some time in the past there may have been a continuous surface water connection to the area north of the Middle Country Road" and "The flooding seems to be most pronounced during and after extended periods of above average precipitation which suggest high water table conditions and or ground water mounding may be creating or contributing to the periodic flooding; the depth to groundwater appears to be about 16 inches in some areas." (G-5)*

Response: Comment will be taken into consideration. Management Plan language will be modified as warranted.

Comment: *Recommendation 7D proposes reduction and/or elimination of illicit stormwater discharge from existing development via Best Management Practices. However, given that these are illicit or illegal, enforcement should also be included as an additional measure to ensure modification or removal of such discharges occur to ensure compliance with existing Federal, State and Town stormwater regulations and requirements and to ensure protection of the Carmans River. (G-39)*

Response: Chapter 86A of the Town of Brookhaven Town Code outlines the conditions and requirements for addressing illicit discharges, including enforcement and mitigation.

Comment: *Pages 75 to 77 of The Carmans River Watershed Protection and Management Plan dated March 2012 proposed a matrix of site-specific stormwater mitigation improvements to be undertaken at 21 outfall sites in the Carmans River watershed. These were viewed as significant, concrete measures to be implemented by the Carmans River Study Group and should be incorporated into the current Carmans Plan. (G-40)*

Response: The comment is acknowledged. The matrix will be added to the Management Plan.

Comment: *The drainage pipe at the identified start of flow of the Carmans, south of the Longwood Public Library in Middle Island, should be fixed or redirected away from the Carmans River. Correction of this condition was initiated on August 23, 2010 by the Commission's Executive Director, John Pavacic, in a letter to the Town of Brookhaven and the Regional Director of the New York State Department of Transportation (NYS DOT). By letter dated September 13, 2010, Sheref Fathi, P.E., of NYS DOT responded to Mr. Pavacic that they would make every effort to correct the situation. On October 4, 2010, representatives of NYS DOT and the former Executive Director of the Library met at the site and exchanged information to resolve this matter. The current status of the project is unclear. This project should continue to be actively pursued by the Town, Library, and NYS Department of Transportation. (G-41)*

Response: The referenced outfall pipe drains a portion of NYS Route 25, and is State owned and maintained. Various mitigation measures have been completed, including the installation of a drainage basin on the property of the Longwood Library. The Town has met with NYSDOT and library staff regarding this issue, and will continue to work in partnership with all required entities to ensure that any proposed library expansions include stormwater mitigation measures.

2.2.7 Sanitary Systems (SS)

Comment: *Impose requirements that have the effect of improving the treatment of sewage from residences and commercial establishments. (B-11)*

Response: The Management Plan has been revised to recommend that the Town assess the merits of requiring modern and innovative sanitary systems for “intermediate” flow amounts, i.e. greater than 1,000 gallons per day and less than 30,000 gallons per day, as these systems exist and have been approved by the Suffolk County Department of Health Services (SCDHS). Unfortunately, SCDHS has not approved innovative technologies that can be used in residential settings or small commercial settings (where sanitary flow is less than 1,000 gallons per day). In order to allow the use of proven, innovative systems Suffolk County the system must be approved by Suffolk County.

Comment: *Where in the plan does the town cease to allow developers of residential and commercial buildings from installing antiquated sewage systems? (C-2)*

Response: Please see the response above.

Comment: *The proposed plan does not instruct the town to require remediation of existing sewage systems. (C-3)*

Response: The Management Plan makes several important recommendations for consideration by the Town Board regarding upgrades to existing sanitary systems. These recommendations include the establishment of a pilot program for sanitary system upgrades in East Yaphank, a rebate program similar to what was enacted in Southampton Town, and assessing the merits of establishing a Watershed Protection Improvement District or Wastewater Disposal District to comprehensively address sanitary upgrades. The Town, however, cannot require the remediation of existing sewage systems that are legally permitted and functioning.

Comment: *In the nutrient inputs discussion on pages 23 through 27, the Plan should not permit any new Sewage Treatment Plants to be developed in the management plan area in accordance with current CLUP standard 5. 3. 3. 1. 2 which states “where deemed practical by the County or State, sewage treatment plan discharge shall be outside and down gradient of the Central Pine Barrens.” It should be noted that one indicator that a proposed project may need an STP is if it proposes an increase in density or intensity, beyond the as of right use, that also exceeds Suffolk County Department of Health Services standards. Increases in land use density or intensity should be discouraged in the Management Plan area. (G-71)*

Response: Suffolk County and New York State agencies issue permits for Sewage Treatment Plants through the State Pollutant Discharge Elimination System. These agencies have the legal authority over the siting of Sewage Treatment Plants (STP's). The Town will work with other regulatory agencies to minimize impacts associated with STPs to the Carmans River.

Comment: *Strongly recommend that the town seek access to the Suffolk County septic system upgrade funds under the ¼ % drinking water protection program to pilot the next generation of on-site waste disposal technology upgrades near Main Street in Yaphank as its first implementation area. Used in combination with the watershed improvement funds, homeowners would be able to finance a series of improvements to their property-- including actions that would retire older polluting practices and technologies in favor of more current, less polluting ones. The Town's efforts to create such a pilot program would have the much needed benefit of promoting faster reviews and approvals for residential denitrifying systems by the Suffolk County Health Department, an essential and critically needed outcome at this time. (H-4)*

Response: The comment is acknowledged and appreciated and the Town supports the idea of a pilot project. It is hoped that a pilot study can move forward. Town staff have expressed the value of considering East Yaphank given the density of residential development in the area and its proximity to the Carmans River. The Management Plan has been revised to include this recommendation.

Comment: *Regarding denitrification systems and other alternatives to controlling and/or preventing nitrogen and all other potentially toxic elements from reaching aquifer and river end points within the watershed, we request that the Town include the consideration of closed septic systems, such as compost toilets and urine harvesting systems. (L-8)*

Response: The comment is acknowledged. If these systems are approved by the SCDHS for residential use the Town of Brookhaven will support their implementation and use by homeowners.

Comment: *We further emphasize here that the Town should, in writing the Plan, state its willingness to supercede the provisions, practices, and standards set forth by any County or State agency which is failing to protect us, and is the Town's legal right, under NYS law, to do. Simply by including such a statement of Town willingness to include a consideration of all alternative treatment systems that work will be important as our community continues to work with the Suffolk County Department of Health Services in expanding their standards. (L-9)*

Response: To the extent the Town of Brookhaven is legally able to implement a recommended strategy the Town will consider doing so, as with the proposal to require innovative wastewater treatment strategies for intermediate flow volumes. The Town will not supersede other authorities regarding proposals that it is legally precluded from addressing.

Comment: *I recommend that the Town create and pass town-wide legislation requiring an approved sewage treatment system (STP) as a minimum standard for any new multi-residential developments, and medium to large scale commercial developments. (M-3)*

Response: The Management Plan recommends the use of STP technology that can remove significantly more nitrogen than commonly approved STPs. The Town, through the Plan, is examining regulatory authority and technology that can be used to decrease nutrient impacts to the Carmans from existing and future development.

Comment: *Recommend that the Plan that sanitary upgrades be the foremost priority of the Watershed Protection Improvement District activities. (N-2)*

Response: The comment is acknowledged. Reduction of impacts from sanitary waste through the use of innovative technology and through the use of regulatory mechanisms is a key component of the plan.

Comment: *There are a number of other recommendations that really urge Suffolk County to implement measures, too. And perhaps the most significant one is, right now in the Suffolk County Sanitary Code for low-flow, anywhere from zero up to a thousand gallons a day, Suffolk County does not allow for the use of alternative systems. We think that given the track record of many other municipalities, other regions throughout the United States, some fairly close to home here in Massachusetts and Rhode Island, the New Jersey Pinelands, that there are proven technologies that can be scaled down and used in residential establishments -- or residential settings I should say, that significantly reduce the amount of nitrate-nitrogen that ends up in the groundwater. (N-4)*

Response: The comment is acknowledged.

Comment: *And we want to strongly urge the Suffolk County Department of Health Services and the Legislature to move with real haste to allow for alternative systems to be used. (N-5)*

Response: The comment is acknowledged. The Town is working with the other regulatory agencies to decrease impacts from nutrients to the Carmans River, including nutrients discharged from STPs.

Comment: *Another key component of dealing with the sanitary nitrogen that came out of the public informational hearings, and one that I have to point out that both Kevin McAllister from Peconic Baykeeper and Doug Swesty have been very, very helpful about is the enhanced local authority of Town governments to be able to require the use of these innovative treatment systems, for intermediate flows between 1,000 gallons and 30,000 gallons a day, in use. (N-6)*

Response: The comment is acknowledged and appreciated. The Management Plan has been revised to include this recommendation.

Comment: *A new recommendation will be included in the Plan, which requires that all new sanitary systems or upgrades to existing systems designed to treat intermediate flows or greater, 1,000 gallons a day or more -- situated within the Carmans River of 100-year Watershed, utilize the best available technology or back, for treatment of sanitary waste. Specifically best available technology shall mean the sanitary system meets the following operating conditions: Nitrogen shall not exceed three parts per million as measured over a 12-month rolling average; At no point shall the monthly average exceed three -- five parts per million; And the said sanitary system shall be warranted by a licensed professional engineer. (N-7)*

Response: The comment is acknowledged and appreciated. The Management Plan has been revised to include this recommendation.

Comment: *Another amendment that came out of the public informational meetings is a recommendation to consider the East Yaphank community as a pilot program, where we, assist homeowners in providing an incentivize a financing to them to upgrade their sanitary systems. A very successful program along this line, as you know, was recently, in a smaller scale, implemented in the Town of Southampton very successful. They've already exhausted the money. And we think that that has a great deal of merit, and particularly targeted in the East Yaphank community, if you look at that and there are number of hundreds of homes that are just east of Southaven County Park and west of William Floyd Parkway. It's an area that is contributing a fair amount of nitrogen to the River. At that point, nitrogen goes up to, I think in some cases four to six milligrams per liter. And it's been coming from the dense residential development there. So this type of a pilot project, but implementing it in a meaningful comprehensive way could really make a difference in dampening down nitrogen. (N-8)*

Response: The comment is acknowledged. The Plan recommends use of innovative technology to reduce the impacts of individual sanitary systems through such programs as the pilot program referenced in the comment, and programs such as Southampton's that subsidize sanitary system upgrades.

Comment: *There is also a big step forward in the discussion of advanced septic systems here in the Town's Plan. It is a major stride forward to require, for intermediate flows or higher, a thousand gallons per day or higher, and the use of advanced septic treatment systems that have already been approved by the Suffolk County Health Department.* (N-13)

Response: The comment is acknowledged and appreciated. The Town of Brookhaven believes that this proposal, which was outlined by Town Staff at the public hearing held on the Carmans River Conservation and Management Plan, has a great deal of merit and will play an important contributory role in striving to achieve water quality goals for the river. The Management Plan has been revised to include this recommendation.

Comment: *We're talking about technology such as Nitrex, for example, which was mentioned, that have been approved by the County Health Department and requiring their use anywhere within the 100-year watershed boundary.* (N-14)

Response: The comment is acknowledged. Please see above response.

2.2.8 Natural Resources (NR)

Comment: *There are several ecological communities which are missing from those discussed on pages 145— 148. These were identified in the prior Carmans River Watershed Protection and Management Plan dated March 2012 and can be found on page 52 of that document. The missing community types are Pitch pine-oak forest, Successional old fields and brackish tidal marsh. Accordingly, they should be added to and described in this section. (G-13)*

Response: The comment is acknowledged. The community types which you have mentioned have been added to the Management Plan.

Comment: *The New York Natural Heritage noted the rarity of the community types coastal plain ponds, red maple-black gum swamp and brackish tidal marsh. A paragraph which discussed their rarity is found on page 52 of the prior Carmans River Watershed Protection and Management Plan dated March 2012 and should be added here. (G-14)*

Response: The comment is acknowledged. The Management Plan has been amended to add this information.

Comment: *The discussion on pages 157 to 158 is missing some information that was contained in the prior Carmans River Watershed Protection and Management Plan dated March 2012. Pages 47 to 49 of that plan contained a discussion of invasive species including Phragmites as well as additional information on fanwort and variable watermilfoil. Accordingly, the missing information should be added from pages 47 to 49 of the prior Carmans River Plan dated March 2012. (G-15)*

Response: The comment is acknowledged. The information has been added with supplemental information related to the current dredging projects aimed at removing invasive aquatic plants from Upper and Lower Lakes.

Comment: *In the first paragraph of this subsection on page 163, the discussion is missing the reference to the Breeding Bird Atlas breeding census blocks found in the Carmans River watershed along with the overview of the discussion of bird species found in the prior Carmans River Watershed Protection and Management Plan dated March 2012. Accordingly, this paragraph, found on page 54 of the prior document, should be incorporated here. (G-16)*

Response: The comment is acknowledged. The Management Plan has been amended to add this information.

Comment: *A discussion on trumpeter swans found at the top of page 55 of the prior Carmans River Watershed Protection and Management Plan dated March 2012. The presence of trumpeter swans is especially noteworthy and has been the subject of significant Yaphank community observations. Accordingly, that paragraph should be inserted here. (G-17)*

Response: Since the original Carmans Plan of 2012 was released, one of the Trumpeter Swans was illegally shot and unfortunately did not survive. The other surviving swan left the lake shortly thereafter and did not return for the duration of the season. Due to this unfortunate and illegal action it is not clear if Trumpeter Swans will return to this area. Furthermore, the Trumpeter Swan does not appear on the NYS endangered/threatened/special concern lists and therefore does not receive any additional protection from the State. As such, this information has been omitted from the current Management Plan.

Comment: *In the discussion of bald eagles in the first full paragraph on page 164 the discussion should be updated to note that bald eagles are now nesting in Wertheim National Wildlife Refuge. (G-18)*

Response: This information was included in the DGEIS but, since first reported, it does not appear that a pair of bald eagles has nested or is nesting in the Refuge or any other locations along the River. Their behavior does suggest that nesting may occur in the future however.

Comment: *The Central Pine Barrens Commission's Protected Lands Council prepared a report in January 2011 entitled Stewardship of Public Lands in the Upper Carmans River Watershed: Recommendations "PLC Plan") that provides many recommendations that should be incorporated into the Carmans River Plan and applied throughout the entire Carmans River watershed study area. These recommendations include measures to protect and restore the region's ecosystems that have been degraded by invasive species, dumping, illegal ATV/ORV use, improve surface and groundwater quality, restore and protect scenic, historic, and archaeological resources, and promote opportunities for compatible, nondestructive, open space dependent uses, education, scientific research, and tourism. The PLC Plan recommends strong design standards to protect and restore the historic and scenic character of the region and to transform the area into a place that "looks, feels, and functions more like the Preserve that it is," and it offers specific measures that the Town can employ through existing and new programs. (G-57)*

Response: The comment is acknowledged. The recommendations contained within the Management Plan seek to accomplish the same goals as the "PLC Plan". The Town of Brookhaven, together with other involved and interested agencies (such as

the Central Pine Barrens Commission) will work to accomplish these goals and restore the Carmans River and the surrounding woodlands.

Comment: *In the discussion on pages 37- 41 the DGEIS should address the current implementation of the Carmans River dredging initiative and potential impacts, beneficial and adverse, that it may have on the Carmans River and its aquatic and benthic species and habitats. For example, this section discusses the important role of benthic macroinvertebrates in the functioning of freshwater ecosystems and direct affects on human welfare." Dredging activity in the Carmans River may result in impacts on aquatic insects. The Plan should address proposed dredging activity in the Carmans River as it relates to protection of and potential impacts on macroinvertebrates resources in the River. (G-73)*

Response: The project to dredge two Lily and Willow Lakes in Yaphank that are part of the Carmans began review six years ago, prior to the development of the Plan. Lessons learned from the dredging of the Lakes will be applied to any future dredging projects. A section can be added to the Plan noting this.

Comment: *The discussion of potential impacts to natural resources should be more explicit as to why/ what elements of the Plan, when implemented, would prevent impacts from occurring or should refer to information in Section 1 where some of this information is discussed. This is not consistently done throughout this section. (G-74)*

Response: The comment is acknowledged. The Management Plan has been revised and strengthened to be more consistent.

Comment: *The plan mentions aquatic invasive species but does not go further to outline other invasive plants or animals. Laws should be passed that prohibit feral cat colonies within the watershed, allow the town/county/state to enter private lands to eradicate invasive plants, and write into law the ability to control or remove mute swans (and try to establish trumpeter swans). (J-3)*

Response: The comment is acknowledged. A Comprehensive Invasive Species Management Plan, containing a set of prioritized recommended action items, will be prepared. At this time it is not clear what strategies will be recommended nor what species will be targeted. It is noted however, that the number of Mute Swans breeding and overwintering along the river is growing and should be given early consideration for control given the amount of organic nitrogen they produce and release to the water column on a daily basis

Comment: *In the Section Protection of Natural Resources, I would like you to increase the buffer area from 50' to 100' in Recommendation A. Prohibiting new construction, clearing and fertilization within 100' of the surface water and wetlands area in the Management Plan area is necessary to really protect the river and the health of Brookhaven's citizens. (M-5)*

Response: While 100 feet would allow for a larger buffer, all properties within 150 feet of freshwater wetlands are required to obtain a wetlands permit from the Town of Brookhaven for regulated activities (in addition to a NYS DEC permit for many situations). The permitting process ensures the best possible outcome for the protection of the wetlands and surface waters. However, many properties that lie within close proximity to freshwater wetlands or surface waters were created and improved decades ago and it may be impossible or impractical to meet buffers greater than 50 foot in width. Each case is subject to individual review through the required environmental review and permitting process.

Comment: *Another proposal in the Plan is to urge Suffolk County to enact a prohibition on the feed of our water found in the Suffolk County parks, most notably Southaven, with the leadership of the Town Board here. You did that several years ago with regard to Town parks and facilities. We would make the recommendation that Suffolk County should follow the lead. (N-3)*

Response: The comment is acknowledged, your concerns has been shared with Suffolk County.

2.2.9 SEQRA Compliance (SEQ)

Comment: *It is significantly deficient in its failure to discuss in a manner required by SEQRA the adverse environmental effects of the potential issuance of additional Pine Barrens Credits as a result of enlarging the Pine Barrens in accordance with the proposed plan. (B-1)*

Response: The comment assumes an adverse environmental impact from the generation of approximately 135 additional Pine Barrens Credits. This is discussed in the Management Plan in Chapter 5: Management Plan Recommendations as Recommendation 1E and in the associated DGEIS in Section 3.1.5 Pine Barrens. The goal of PBC redemption for the Town of Brookhaven continues to be 75% acquisition of the lands within the Core Preservation Area. Applying that goal to an estimate of approximately 135 new Pine Barrens Credits as a result of the Core Area expansion, the Carmans River Conservation and Management Plan recommends that the Town of Brookhaven, with other municipalities, purchase the private lands, potentially extinguishing 99 of the approximately 135 PBC's.

An approximate remainder of 36 credits may be redeemed pursuant to Brookhaven Town Code Article XXXVII, Central Pine Barrens District, through a Residential Overlay District and Incentive Zoning. Additionally, PBCs may be redeemed pursuant to Brookhaven Town Code Article IX, MF Residence District. The Plan also indicates that the Town should continue to develop other innovative ways to redeem PBCs in accordance with the Recommendations contained in the Central Barrens Comprehensive Land Use Plan. Lastly, it is likely that many of the outstanding credits will be used in commercial applications to increase sanitary flow; the main use for redemption of PBC's to date. These impacts are mitigated in that these commercial developments often have advanced on-site wastewater treatment or are connected to large STP's.

It has been determined that the Town of Brookhaven has the capacity to absorb approximately 135 potential Pine Barrens Credits without significant adverse environmental impacts.

Comment: *There is information in the Carmans Plan which is missing from this DGEIS and information in the DGEIS which is missing from the Carmans Plan, particularly in the Natural Resources sections. Both documents should be made consistent with one another. Furthermore, comments made on the Carmans Plan should also be addressed in corresponding sections of the DGEIS. (G-59)*

Response: The SEQRA process involves an action that may be approved or denied by an agency. If the agency determines that one or more significant adverse environmental impacts then a Positive Declaration is issued with the intent of preparing an Environmental Impact Statement and once a draft of an Environmental

Impact Statement is produced and deemed adequate in content by the Lead Agency it is distributed to involved agencies, interested agencies, and any person or persons that has requested a copy in addition to copies being provided on the internet and local libraries. After a minimum of thirty days the lead agency shall hold a public hearing to discuss the draft of the Environmental Impact Statement and solicit public comments. At the close of the public hearing the SEQRA requires a minimum ten day written comment period to accept additional agency and/or public comment. Once the written comment period is closed, the substantive comments are collected and addressed in the Final Environmental Impact Statement which may incorporate the Draft Environmental Impact Statement as reference. The Lead Agency must then adopt the Final Environmental Impact Statement as adequate in addressing the substantive comments submitted by the involved agencies, interested agencies, and any person or persons who have submitted substantive comments. After a minimum ten day waiting period the Lead Agency may adopt a Findings Statement to support a decision to either approve or deny the action. The results and determination of the Final Environmental Impact Statement and the Findings Statement are then incorporated into the action. The adjustments to the action as a result of the SEQRA process then constitute the Final Action which then may be approve or denied by the Lead Agency. Alterations, corrections and/or additions to the Management Plan will not be incorporated into the previously accepted Draft of the Generic Environmental Impact Statement as this would be in conflict with the SEQRA. The Final Generic Environmental Impact Statement will consist of:

- the draft EIS;
- any necessary corrections or revisions to the draft EIS;
- copies or a summary of all substantive comments received, indicating their source (correspondence, hearing, etc.); and
- the lead agency's responses to substantive comments.

However, the Town will include any necessary changes or additions to the draft EIS, with the reasons for these changes. Where changes are relatively few, and do not involve substantive changes to the draft EIS, an errata sheet listing changes to be made to the draft will be supplied but where major substantive changes will be made to the draft EIS, revised text sections will be provided.

Comment: *Instead of merely restating the content of the GEIS section of the SEQRA regulations, this section should enumerate the specific performance standards against which future actions will be measured and assessed to determine whether or not additional environmental impact analysis and review is required. These performance standards can be adapted from the recommendations and mitigation measures described in Chapter 5 of the Carmans Plan. (G-84)*

Response: The subsequently prepared Findings Statement will enumerate the specific performance standards against which future actions will be measured and assessed to determine whether or not additional environmental impact analysis and

review is required. The Findings Statement will be prepared in accordance with the SEQRA process as described above.

Comment: *The State Environmental Quality Review Act (SEQRA). The Plan raises a number of concerns with respect to both the procedural and substantive aspects of SEQRA. (K-11)*

Response: As this comment does not explain the specific concerns with respect to both the procedural and substantive aspects of SEQRA please refer to the response to Comment N-15.

Comment: *Please provide a detailed explanation as to how the division of the Multifamily (MF) Code, the New York State legislation expanding the Pine Barrens and the Carmans River Conservation and Management Plan into three (3) separate actions does not constitute segmentation. (K-12)*

Response: The Multifamily (MF) Code, the New York State legislation expanding the Central Pine Barrens Core and Compatible Growth Area, and the Carmans River Conservation and Management Plan are three stand-alone actions. The separate actions do not have a common purpose or goal. The above actions do not share a common impact that may, result in a potentially significant adverse impact if the actions could be viewed as one project.

The Carmans River Conservation and Management Plan recommends the expansion of the Pine Barrens and analyses the potential adverse environmental impacts that may be associated with the action, but does not involve development in subsequent phases. Also the act of expanding the Pine Barrens Core and Compatible Growth Area is under the jurisdiction of the New York State legislature and Governor. The Multifamily (MF) Code was a code amendment adopted independently from the Plan and the Pine Barrens expansion, and is not functionally dependant on the Plan or the Pine Barrens expansion. Lastly the approval of one does not commit any agency to approve any other action.

Comment: *I do have concerns about this Plan. And the concerns are that it's being done. I mean I can't speak to this with any expertise. I'm not an attorney. But a number of attorneys for organizations here, that are represented here tonight, have raised the concern that certain steps were not in compliance – that were taken and developed for this Plan are not in compliance with the SEQRA process. And what I'm afraid of is whatever plan we may adopt, no matter how good it may be, may ultimately be legally challenged because certain things were not done the way they are required by law. That is, the t's weren't crossed and the i's weren't dotted. (N-15)*

Response: In conducting the SEQR process, the Town Board as lead agency has completed the following:

Asked all other involved agencies about their concerns for the proposed action, and considered the concerns in making its determination of significance; Completed the environmental assessment form and reviewed the Part 1 and other relevant information, and prepared Part 2; Determined whether any aspect of the overall action may have or will not have a significant adverse impact upon the environment; Prepared a legally sufficient determination of significance (positive declaration) that met the standards of 617.7; Prepared the draft GEIS; Determined the adequacy of the draft GEIS and commenced public review in accordance with 617.11(a); Held a SEQR public hearing concerning the draft GEIS; and finally prepared this final EIS, including the responses to all substantive questions and comments.

Future actions in the SEQR process include:

Preparing Lead Agency Findings based on the Environmental Impact Statement prior to a final decision on the Plan; and Submission of all appropriate notices and filings of the SEQR process, as required in 617.12.

Comment: *There is no analysis in this Plan or in its D.G.E.I.S. that addresses any of the required hard looks to make the analysis of the data on the ground. (N-16)*

Response: The Town Board as lead agency has identified relevant areas of environmental concern that may arise as a result of the implementation of the Plan, thoroughly analyzed them for potential significant adverse environmental impact in the DGEIS, has supplied responses to all substantive questions and comments, and will support the approval or denial of the Final Carmans River Conservation and Management Plan with reasoned elaboration in the Findings Statement.

Comment: *Where is the meat? There is no meat in this Plan. There is no meat in this D.G.E.I.S.. It falls flat in doing what we had hoped, really, really hoped would happen with this Plan. But it doesn't happen. (N-17)*

Response: The proposed Carmans River Conservation and Management Plan has been developed pursuant to substantial study and analysis, public meetings, and developed with peer reviewed journal articles, previously adopted land use plans such as the Central Pine Barrens Comprehensive Land Use Plan and The Long Island Comprehensive Water Treatment Management Plan (Long Island 208 Study), studies prepared by private consulting firms for the Town of Brookhaven, Suffolk County and New York State, as well as references from the US Geological Survey, Suffolk County Department of Health Services, New York Natural Heritage Program, New York State Department of Environmental Conservation, New Jersey Geological Survey, the University of Florida, US Department of Agriculture, U.S. Census

Bureau, US Department of the Interior, US Environmental Protection Agency and other reputable sources with the intent to protect and restore the Carmans River.

Pursuant to SEQRA, EISs must be clearly and concisely written in plain language that can be read and understood by the public. It is stated in the SEQRA that EISs should not contain more detail than is appropriate considering the nature and magnitude of the proposed action and the significance of its potential impacts.

2.2.10 Appendix/Maps (AM)

Comment: *Figure 15 “Contaminant Plumes, Contaminants Sources and Active Spills” there is an omission. Missing from the map is the largest plume that of the Brookhaven Town Landfill. Please add this known plume to the ten already listed on this map. (F-1)*

Response: The comment is acknowledged. Figure 15 has been revised accordingly.

Comment: *Figure 4 shows a map of a "Study Area" and the legend shows a green outline of the "Carmans Management Plan Area" that is different from the map shown on Figure 4a in that Figure 4 also includes the area north of Middle Country Road. The map in Figure 1 also shows a green "Carmans Management Plan Area" boundary that appears to be inconsistent with descriptions of the Management Plan Area in the DGEIS and elsewhere in the draft Carmans River Plan. (G-52)*

Response: The comment is acknowledged. Figure 4a has been revised accordingly.

Comment: *Notes on a number of the maps are illegible and there are many irregularities and inconsistencies. (G-53)*

Response: The comment is acknowledged.

Comment: *It is unclear how the precise boundaries of the study area and management zones were derived. Please delineate the methodology used to determine which parcels were placed within the Study Area, the Core and Compatible Growth Areas of the Pine Barrens and which parcels were identified for rezoning. (K-2)*

Response: Pages 88 through 92 in the Management Plan clearly represent the methodology used to determine the time of travel zones that were the basis for the recommendations provided in Chapter 5.

2.2.11 General (G)

Comment: *General support for the Carmans River Conservation and Management Plan. (A-1) (D-1) (E-1) (H-1) (N-9) (N-10) (N-11) (N-25) (N-33)*

Response: Thank you for your comments.

Comment: *It should not have a “Recommendations” chapter, but instead a “Plan of Action” chapter. (B-2)*

Response: The comment is acknowledged.

Comment: *What are the expectations that lawsuits will arise from rezoning and how might they affect the town coffers? (C-4)*

Response: The Town of Brookhaven does not anticipate legal action that would have any significant impact on the Town’s finances.

Comment: *How can residents, through our council representatives, sign off on a plan that is void of mandates? How will not following through on recommendations alter some or all of the proposed protections, specifically? (C-7)*

Response: Comprehensive or Master Plans, such as the Carmans River Conservation and Management Plan, by their very nature provide a blueprint and vision for a desired outcome and a road map for future specific recommended strategies that if implemented will achieve the desired outcome. In the case of the Carmans River Plan, the desired outcome is to maintain and restore the ecological health and water quality of the River.

Some recommendations have greater relevance and value to protecting the river than do others. It is not possible at this time to describe, in a general, open-ended way, what will happen if a particular recommendation is not acted upon. This will be the responsibility of the Carmans River Management Plan Performance Committee.

Comment: *The second sentence in the first full paragraph on page 20 of the Executive Summary states that the addition of certain properties to the Compatible Growth Area "... would prevent these properties from being developed by providing property owners with the opportunity to obtain Pine Barrens Credits..."Development is allowed in the Compatible Growth Area, so this statement should be corrected. (G-1)*

Response: The comment is acknowledged.

Comment: *Identify the entity which will appoint the Committee. (G-47) (L-7)*

Response: The Town Board has the authority to appoint committee members and will be responsible for doing so. Page 194 of the Management Plan recommends that members chosen to this committee assignment should include “planning and environmental professionals from relevant local, state and federal agencies, and representatives from civic and local, regional, and national environmental organizations.”

Comment: *All applicable mitigation measures identified in Chapter 5 should be listed here as being under the purview of the committee. (G-48)*

Response: The comment is acknowledged. Page 194 of the Management Plan clearly recommends that the committee “take the lead in coordinating implementation of this Management Plan.”

Comment: *In Recommendation 18D, the source of the "recommendations to improve the effectiveness of the preservation efforts and the redemption of Pine Barrens Credits..." should be identified. Furthermore, stronger measures should be proposed to ensure implementation of the mitigation measures is occurring and to address situations when preservation efforts have not been deemed to be effective by the committee. (G-49)*

Response: The comment is acknowledged. The recommendation provides the committee the ability to offer new recommendations to the Town of Brookhaven for implementation based on the effectiveness of the implementation efforts contained in this Management Plan. The Management Plan also includes an implementation schedule that can be used by the committee to prepare its annual report.

Comment: *Management Plan Area Description Discrepancies: In some sections, the location of the land area that is covered by the draft Carmans River Plan is not clear and therefore it is not possible to review some of the elements in the Carmans River Plan in their proper context. A clear distinction should be made between the original Carmans River Study Area, which encompassed areas outside the 100- year groundwater contributing area north of Middle Country Road (State Route 25), and the currently proposed Management Plan Area. For example, on page 170, it is recommended that a map be prepared that reflects the Management Plan Area" boundaries shown in Figure 4a. However, the Figure 4a map is entitled "Groundwater Contributing Area..." and its legend does not indicate a Management Plan Area." (G-51)*

Response: The comment is acknowledged. The Management Plan has been revised accordingly.

Comment: *As recommended in this PLC Plan, Town land managers should increase their participation in cooperative public lands management efforts with the Commission and other public landowners, and cooperative agreements should be established. Town Departments involved in planning, management, and protection of public lands should cooperate including, but not limited to the Planning Department, Environmental Division, Land Management Division, Parks Department, Highway Department, and the Town Historian. (G-58)*

Response: The comment is acknowledged and appreciated.

Comment: *In the discussion on page 27, the drainage pipe at the identified start of flow of the Carmans, south of the Longwood Public Library in Middle Island, should be fixed or redirected away from the Carmans River. Correction of this condition was initiated on August 23, 2010 by the Commission's Executive Director, John Pavacic, in a letter to the Town of Brookhaven and the Regional Director of the New York State Department of Transportation (NYS DOT). By letter dated September 13, 2010, Sheref Fathi, P.E., of NYS DOT responded to Mr. Pavacic that they would make every effort to correct the situation. On October 4, 2010, representatives of NYS DOT and the former Executive Director of the Library met at the site and exchanged information to resolve this matter. The current status of the project is unclear. This project should continue to be actively pursued by the Town, Library, and NYS Department of Transportation. (G-72)*

Response: The Town will contact the Library and NYSDOT to determine the status of the project. The outfall pipe referenced drains a portion of NYS Route 25 and is state maintained and owned. The pipe discharges to a basin adjacent to the Longwood Library parking lot and has designed overflow to the river bed. The river bed at that point is dry most years. The library has expansion plans adjacent to the site, and the Town will volunteer assistance of staff to help with the incorporation of stormwater mitigation measures for the NYSDOT outfall with the Library expansion plan.

Comment: *The Plan identifies a variety of "Recommendations" that support the proposed actions such as rezonings and the Core expansion. The DGEIS should review and assess each Recommendation," discuss implementation, benefits, and impacts, funding and management. For example, water quality sampling and outreach activities are recommended. To follow-up on those" Recommendations," identify the responsible parties to conduct these activities, standardized sampling methods, baseline data, and timelines for implementation. (G-82)*

Response: It is recommended in the Management Plan that a Carmans River Management Plan Performance Committee be established to work with the Town in implementing plan elements. The Committee will be the party responsible for identifying the persons or organizations responsible for conducting recommended activities, standardized sampling methods, determining baseline data, and developing timelines for implementation. The yearly progress will be contained in an annual progress report on the effectiveness of the implementation of Carmans River Conservation and Management Plan.

Comment: *Provide a timeline as to when the Draft Plan will be finalized and a schedule for preparation of SEQRA documentation for the project, including the Findings Statement and implementation of the Final Plan. (G-83)*

Response: In accordance with §617-9 and 10 of the State Environmental Quality Review, the comment period for the Draft Generic Environmental Impact Statement began on July 02, 2013. The public hearing was held on July 30, 2013 and the written comment period was extended until August 21, 2013. It is anticipated that the Town Board may accept this Final Generic Environmental Impact Statement on October 1, 2013. In accordance with SERQA the Town Board will afford agencies and the public a reasonable time period of not less than 10 calendar days in which to consider the final EIS before issuing its written Findings Statement and rendering a decision on the Carmans River Conservation and Management Plan.

Comment: *Strongly support creation of the performance implementation committee. Bringing a series of recommendations into action will require the commitment of a team of dedicated people that actually can make this draft plan operational. (H-5)*

Response: The comment is acknowledged.

Comment: *One of the areas this plan needs more attention is how to address the landfill leachate plume heading for Yaphank Creek and Little Neck Run. This seems to be "the elephant in the room" and is not well reported in the plan. Although we know how it is being monitored, it needs to be spelled out as to what the concerns are and what mitigation could be taken if it is deemed to be a pressing hazard. (J-1)*

Response: The comment is acknowledged and a Figure in the Management Plan has been added to show the known plumes within the study area with the landfill leachate plume having been added to the Appendix of Maps. The Town of Brookhaven Department of Waste Management has jurisdiction on the landfill and the plume. Working with a consultant and the NYS DEC the Town has prepared a remediation

plan. Major elements of this plan consist of capping the landfill thus eliminating a source of additional leachate, installing additional monitoring wells to better characterize the plume's dimensions and water contaminant parameters and to hook-up affected home and business owners in the path of the plume. The Town will continue to monitor the plume as it continues to dissipate as it moves through the groundwater system.

Comment: *In the plans effort to mitigate or reduce pesticide use it should consult with Suffolk County Vector Control to employ the current best methods available. Suffolk County Vector Control along with US Fish & Wildlife and Ducks Unlimited are in the vanguard in reducing pesticide use on the tidal salt marshes along the Carmans and are nationally recognized for their work. (J-2)*

Response: The comment is acknowledged.

Comment: *The Plan contains a series of goals located in the statement from Commissioner Tullio Bertoli, the Executive Summary and in Chapter 1. The individual lists of goals are all somewhat different and this is particularly true of the goals contained within the statement from Commissioner Bertoli in comparison to the goals listed in both the Executive Summary and Chapter 1. There is also a minor but potentially important difference in one of the goals listed in the Executive Summary and Chapter I. This inconsistency should be addressed in the final version of the Plan. (K-1)*

Response: Review of the statement presented by Commissioner Bertoli generally outlines the vision of the Management Plan. The goals indicated in Commissioner Bertoli's opening statements are "overarching goals" which reference the long term goals of the Management Plan and also refer to the recommendations of the Plan. The Goals of the Management Plan are provided on pages 18-19. Therefore there was no inconsistency found.

Comment: *The planning process and work of the Study Group were tied to the development of the original drafts of the Plan entitled the Carmans River Watershed Protection and Management Plan. The current draft entitled the "Carmans River Conservation and Management Plan" was not prepared pursuant to the former process nor did it contain the same Study Group participants. The Plan process and Study Group participants should be updated. (K-10)*

Response: The comment is acknowledged. Much of the work that was previously performed by the Study Group participants is included in this Carmans River Conservation and Management Plan. The Town of Brookhaven wishes to acknowledge and cite the technical and guest participants and all of those that contributed to the formalization of the final Management Plan.

Comment: *Many of the recommendations merely obligate the Town to "consider," "investigate" or "cooperate" with other agencies to achieve the goals of the study. The recommendations also fail to include specific timelines for the implementation of the recommendations. (K-13)*

Response: The comment is acknowledged. The Management Plan is multi-jurisdictional and therefore several of the recommendations require the work of an agency outside of the Town of Brookhaven, such as Suffolk County or the State of New York. The Town of Brookhaven has a long history of partnering with these agencies and this Management Plan offers recommendations for the continued partnerships. A schedule detailing the Implementation of Recommendations has been added to the Plan.

Comment: *Storm water and code enforcement recommendations are already required and therefore add little in the way of new protection. (K-17)*

Response: The comment is acknowledged. Although regulations may exist in the areas of storm water and code enforcement, it is important that the Management Plan outline the support, encouragement and in some cases supplement these regulations and their enforcement.

Comment: *The number of recommendations In the Plan does not match the nineteen (19) recommendations referenced in the introductory chapters. (K-21)*

Response: The comment is acknowledged. The Management Plan offers 19 main topics of recommendations.

Comment: *In order to address the above noted concerns, it is recommended that the Town organize a committee to address outstanding comments related to the plan. This "Study Group" should consist of civic members, water quality experts and planners and they should be charged with the development of a revised draft within a specified time frame of six months. (K-22)*

Response: The commentator's recommendation for the establishment of a "Study Group" is beyond the scope of and contradictory to SEQRA. §617.8, 9, 10 & 11 of the NYS Environmental Quality Review clearly define a time line of actions regarding the SEQRA process. The Town of Brookhaven has adhered to these required time lines and has acted in accordance with the requirements of SEQRA.

Comment: *We request that the name of the Plan have “Watershed” inserted after “Carmans River.” This has always been a plan for the watershed, not simply its manifestation as a river. (L-1)*

Response: The comment is acknowledged. It is believed the existing language is more accurate because it speaks to both the groundwater contributing area, and the surface watershed.

Comment: *We would like to see that assurance of flexibility and ability to improve the Plan reflected in writing in the Plan, perhaps as an attendant function of the anticipated new Study Group charged to evaluate the Plan’s progress. (L-2)*

Response: Page 194 of the Management Plan provides the recommended Carmans River Management Plan Performance Committee the ability to analyze the Management Plan and offer recommendations to the Town Board to improve the effectiveness of the Plan.

Comment: *This Plan currently lacks, and must have, a timeline, budget considerations, and a source of funding for actions that are intended or planned. (L-10)*

Response: The Management Plan has been revised to include an implementation schedule (timeline). The Town has identified funding issues and potential sources of funding to implement many of the desired recommendations. At this time it is not possible to provide definitive figures because it is unclear how much funding a specific recommendation might require to implement. Budget figures and funding sources will be developed as the recommendations are refined and implemented.

Comment: *I suggest that the Town Establish a Watershed Protection Improvement District, encompassing the boundaries of the Carmans River Management Plan or Study Area”, instead of “Investigating the merits of establishing a Watershed Protection district”. The momentum currently exists to make real changes and hard choices to improve the quality of our drinking and surface water and the Town needs to seize that opportunity. (M-1) (M-2)*

Response: The comment is acknowledged. The Management Plan recommends either a Watershed Protection Improvement District or a Wastewater Disposal District. A determination will be based on the analysis of each of these districts and by recommendation offered to the Town Board by the proposed Carmans River Management Plan Performance Committee.

Comment: *It's important that we keep the science of the Carmans River Watershed Plan intact, in the way in which the Plan will be implemented. It is also important that the wording of the Plan does not allow for wiggle room that might let others dilute parts of the Plan later on. We hope to see the nitrogen level lowered in the near future. (N-23)*

Response: The Management Plan is based on scientific studies and, in particular the incorporation of numeric nutrient standards. It is the Town of Brookhaven's goal to use best available practices to identify the most effective means for protecting, preserving and restoring water quality within the Carmans River.

Comment: *At the same time they are – that we are working to protect Carmans River, we must also protect Yaphank Creek and Little Neck Run which flow into the River. They are very susceptible to road runoff and possibly the land for the leaching pond. (DD-24)*

Response: In terms of the Management Plan the tributaries of the Carmans River, including Yaphank Creek and Little Neck Run, are considered to be a part of the river and as such these tributaries will be subject to all of the Plan's recommendations.

Comment: *I'd also would like to mention the fact that you had a meeting that was held last week, that was posted on your website from five o'clock to nine o'clock. But it ended at 6:15. So you are not accommodating the community resident, when people come to your meeting and it -- it has ended early. (N-27)*

Response: The comment is acknowledged. The Town has taken strong measures to get information on the Plan to the public. These measures have included hosting community meetings, placing information on the Town's website, placing documents in public libraries, and making staff available to answer questions. We regret any inconvenience to residents caused by the meeting ending early.

Comment: *If the 20 or so recommendations detailed in the Plan are fully implemented, I believe the ecology of the Carmans River can be protected and enhanced. The River's water quality will improve and many hundreds of species of plants and animals found along the River or within its Watershed would prosper. (N-28)*

Response: The comment is acknowledged and appreciated.

Comment: *I was concerned when I heard several times, recommendations being made to the County regarding water quality protection. Where what I would have preferred to hear was ways in which, during these times of very few resources, how we could partner with the various levels of government in order to reach our goals.* (N-29)

Response: The Town of Brookhaven will partner with other levels of government where and whenever possible to achieve the recommendations contained in the Management Plan and to this end the Plan recommendations identify the appropriate governmental partners necessary to achieve the recommended outcome. It is important to recognize that the Town has partnered with other levels of government on a variety of issues relating to the Carmans River. Perhaps most notably, the Town has worked closely with Suffolk County, New York State, in acquiring open space parcels in the watershed of the river. The Town will partner with other levels of government and non-governmental organizations to implement other Plan recommendations as well. The Town has also used the Planning process to preserve land through clustered subdivisions and site plans.

Comment: *It's not just one River. There are other rivers going into Long Island Sound and Great South Bay. And we've got to be fastidious and make sure that we don't really kill the Bay, okay, we don't kill the Bay and we don't kill the Sound.* (N-35)

Response: The Carmans River Conservation and Management Plan is intended to preserve the water quality and ecological functions of the Carmans River corridor. These values are equally important for other rivers, lakes, streams, ponds and bays within the Town of Brookhaven. The Town has developed Stormwater Management Plans for a number of waterbodies throughout the Town. These include Mt. Sinai Harbor, Beaver Dam Creek, Swan River and others. The Carmans Plan is more comprehensive than past plans and it is hoped it will serve as a model for other similar efforts in the future.

Appendices

Appendix A: Correspondence from James R. Rennert

JAMES R. RENNERT
6 TILDEN AVENUE
SELDEN, NY 11784-1747

July 18, 2013

Brookhaven Town Board
Brookhaven Town Hall
One Independence Hill
Farmingville, NY 11738

RE: Carmans River Management Plan

Dear Board Members:

I urge you to pass the Carmans River Management Plan when you vote in October.

I have been fly fishing the Carmans since 1981. I spend 30 days per year on the river trout fishing. Every time I am on the river I feel as if I am not even on Long Island, but at some pristine watershed in upstate New York. It is in my opinion the most beautiful spot on Long Island.

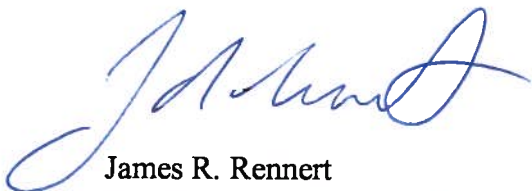
Although the trout fishing has declined over the years, I feel that this management plan will halt the decline of the fishery and the watershed.

We must ask ourselves where and when do we draw the line when it comes to preserving our natural resources vs. residential and commercial development. You know as well as I do that the development of Long Island will continue, but we cannot develop a natural resource, we can only preserve it.

In many ways Carmans River is all we have left when it comes to an inland freshwater environment that is still relatively clean and untouched. Therefore I again strongly beseech you to vote for this plan to allow this beautiful and bountiful river to be protected for our future generations.

A-1
G

Gratefully,



James R. Rennert
Member -- Trout Unlimited



APPENDIX B: Correspondence from East Moriches Property Owners Association

East Moriches Property Owners Association, Inc.

July 30, 2013

Town Board
Town of Brookhaven
One Independence Hill
Farmingville NY 11738

By email to Patricia Eddington, Town Clerk

Comments on Adoption of
the Carmans River Conservation and Management Plan
and SEQRA Draft Generic Environmental Impact Statement

Ladies and Gentlemen:

We expect to submit more detailed comments on the proposed plan and DGEIS. Now, we wish to submit comments on certain "hot topics" that deserve your extended attention.

The proposed plan appears to be a good faith effort to protect the water of the Carmans River and the bays its water flows into from further pollution. There are, however, several respects in which planning is hamstrung by limits on imagining ways of doing better. While it is important to act to protect the Carmans—and the other rivers and streams flowing into south shore bays and Long Island Sound—doing so in a less than complete way would do long term damage to the goals of protecting our water and waterways.

The DGEIS, on the other hand, is far less than a good faith effort to comply with SEQRA. As I pointed out to you during the July 16 Town Board meeting¹, it is significantly deficient in its failure to discuss in a manner required by SEQRA the adverse environmental effects of the potential issuance of additional Pine Barrens Credits as a result of enlarging the Pine Barrens in accordance with the proposed

B-1
SEQ

¹ Please include the record of my 7/16/13 public comments as part of the record of this hearing.

BOARD OF DIRECTORS: ROY REYNOLDS (President), JIM GLEASON (VICE-PRESIDENT),
SUSAN DiSARIO (Corresponding Secretary), CAROLINE CASHMAN (Treasurer and
Recording Secretary), MICHELE BARON, STEVE KEEGAN, ANDREA SPILKA, LAUREN STILES

empoa@suffolk.lib.ny.us
P.O. Box 155, East Moriches, New York 11940

plan. This is not only an error under SEQRA, but an error that increases ignorance and confusion during the public discussion of the plan. It would be wiser to get the facts out NOW--with all the details--so the public can more knowledgeably assess the proposal.

The DGEIS simply should not be approved as is.

The following aspects of the proposed plan should get more attention and be improved.

1. A Plan for Action is Needed, Not Just "Recommendations". When you adopt a Carmans River plan, it should not have a "Recommendations" chapter, but instead a "Plan of Action" chapter. This is more than a terminology change.² The document should reflect a mind set to actually achieve results.³ B-2
G
2. Management of the Pine Barrens Credits to be Issued. Expansion of the Pine Barrens Core means that new Pine Barrens Credits can be issued for the taking. The plan estimates that 135 credits will become available—in addition to the 570 or so that are already outstanding. In fairness to the recipients of the credits, concrete planning is needed for managing these credits. How many credits are likely to be reduced by a municipality or the state acquiring the taken land? How may the remaining credits be redeemed, and how are they likely to be redeemed? Just identifying the possible reasons for redemption is not planning. There should be a concrete plan, based on fully disclosed details, for dealing with all the credits. B-3
PB
3. Acquiring Open Space and Farmland Development Rights.
 - a. Proposing to acquire land for open space without identifying funding to be used is pie-in-the-sky planning. How is this to be done by a Town whose next budget is likely to be a disaster? While definite statements on the ways the contemplated acquisitions will be financed might not be practical, the public is entitled to some meaningful discussion in the plan, at least of the possibilities. B-4
AQ

² "Recommendations" are appropriate in a report by a study group to the Board. The Board, on the other hand, does not make recommendations to itself about what is to be done. Rather, it plans to take specific steps in the future.

³ The plan should not say that the Town "should" take specified actions in the future. The plan should be that it "will" take such actions. For actions to be taken at other levels of government, the plan should say that the Town will "urge" the other body to take actions.

- b. Given current finances, it is not prudent to focus acquisition plans on lands that are to go into the enlarged Core. That land is protected by its being in the Core. Funds should first be used for other, unprotected land in the Watershed and in the rest of Town, rather than duplicating protection of land put into the Core. B-5
AQ
 - c. The Acquisition Prioritization Framework (Appendix D) needs adjustments to more accurately reflect its intent. We will address this in our next set of comments. B-6
AQ
- 4. Protecting Zoning Changes. Various parcels in the Watershed are to be upzoned. There should not be ways of circumventing the upzonings. B-7
LZ
 - a. The proposed Plan includes weak language about the Zoning Board of Appeals and the goals and recommendations of the plan. More is needed. It may take some deep and careful thought.⁴ This is the time to do it. B-8
LZ
 - b. The proposed plan says that parcels subject to previous legal settlements and stipulations are not subject to the plan. This at least needs to be clarified and (depending on its intended meaning) probably should be eliminated, for it has the potential for both confusion and damage to the plan. B-9
LZ
- 5. Water Quality.
 - a. Based on testimony and comments so far, the numeric standards for water quality and the ways of measuring them need fixing. This should be done in an effective way and on a scientific basis. We defer to those more knowledgeable on these issues, and urge that their advice be taken. B-10
WQ
 - b. The Town should stop ducking its responsibility to control pollution, and impose requirements that have the effect of improving the treatment of sewage from residences and commercial establishments. Stop trying to shift sole responsibility to the County. This too might take hard work and some imagination, but that is how to plan. B-11
SS

⁴ There are legal issues to be considered, but they need to be worked with until way of protecting the river from this risk is devised.

Conclusion

We are encouraged that some progress has been made in improving the proposed plan, and ask that it continue until a complete plan has been prepared utilizing these and other comments received.

Respectfully yours,

Jim Gleason, Vice President and Director
For the Board of Directors

APPENDIX C: Correspondence from Joan Nickerson

From: nickeson <nickseson@optonline.net>
To: <peddington@Brookhaven.org>
Date: 07/31/2013 8:14 AM
Subject: Comments on Carman's Draft

To be read into record, please. Thank you. Joan Nickeson

Patricia Edditngton, Town Clerk

Brookhaven Town

July 30, 2013

One Independence Hill

Farmingville, NY 11738

Re: Carman's River Conservation Plan and SEQRA Draft Generic Environmental Impact Statement

Dear Council Members,

I am concerned that the DGEIS is incomplete at best and should be fine-tuned in several areas. I was at the public discussion and wish to see addressed the following, prior to presenting this for a vote;

1. Where are the funds coming from to purchase lands for open space?

C-1
AQ

2. Where in the plan does the town cease to allow developers of residential and commercial buildings from installing antiquated sewage systems? We need to stop the cause of pollution on this level. b. The proposed plan does not instruct the town to require remediation of existing sewage systems.

C-2
SS

3. What are the expectations that lawsuits will arise from rezoning and how might they affect the town coffers?

C-4
G

4. The proposed plan includes exemptions on parcels already involved in legal settlements. The public needs specifics on these parcels; What is being litigated for, and what are the potential outcomes and impact on the river?

C-6
G

5. Regarding the proposed exemptions on parcels currently involved in legal settlements or stipulations; in what hamlets are the outstanding credits going to redeemed? The proposed plan language on what settlements are intended to achieve is not really clear.

6. I heard many recommendations in the proposed plan, but recommendations are easily dismissed. How can residents, through our council representatives, sign off on a plan that is void of mandates? How will not following through on recommendations alter some or all of the proposed protections, specifically?

Thank you for your efforts. I know this is a monumental undertaking.

Sincerely,

Joan

Joan Nickeson

Terryville

C-3
SS

C-5
LZ

C-7
G

APPENDIX D: Correspondence from Vision Long Island

Board of Directors

Ronald K. Stein, *President*
Good Harvest Financial Group
Trudy Fitzsimmons, *Vice President*
Leadership Huntington
Keith Archer
Harras, Bloom & Archer
David Berg
American Planning Association
Richard Bivone
Long Island Business Council
Eliot Bloom, Esq.
Lionel Chitty
Hicksville Chamber of Commerce
John Durso
LI Federation of Labor
Peter Florey
D&F Development Group
Robert G. Fonti
Vincent James Management Company
Matthew Frank
MDF Development Group
Larry Gargano
Greenview Properties
Bishop Harrison Hale
Harrison Hale Community Action Center
Patrick G. Halpin
Institute for Student Achievement
John Keating
National Grid
Richard Kessel
John Kominicki
Long Island Business News
Richard Koubek
Jobs with Justice
Steven Krieger
Engel Burman
Alex D. Latham
ADLIII Architecture
David Leno
Ruskin Moscou Faltischek
Neal Lewis
Sustainability Inst. at Molloy College
Jorge Martinez
LI Hispanic Chamber of Commerce
Bruce Migatz
Albanese & Albanese
Richard Panchyk
Vincent Pizzulli
Forchelli Curto Deegan
Michael F. Puntillo
The Jobco Organization
Maria Rigopoulos
Mill Creek Residential Trust
Dr. Nathalia Rogers
Dowling College
Larry Rosenbloom
Zyscovich Architects
Keith Samaroo
PS&S
Robert Scheiner
H2M
Joy S. Squires
NYS Assoc. of Conservation Comm.
Edward Thompson
Molloy College
John Trotta
Posillico
William Tuyn
Greenman-Pedersen, Inc.



Testimony on the Town of Brookhaven

Carmans River Conservation and Management Plan

July 30, 2013

Vision Long Island supports the proposed Carmans River Conservation and Management Plan as it provides new regulations for land preservation that benefit the community. These recommendations will help prevent sprawl and overdevelopment from occurring in areas susceptible to flooding and in areas with high biodiversity that need protection. This plan encourages the development of consolidated commercial and housing locations that create safer communities and will prevent environmental degradation as well as groundwater contamination.

D-1
G

Carmans River is not only geologically important but it provides an important water source for residents of the town of Brookhaven. Ensuring that developments around the river are within an appropriate proximity of the river boundary and watershed will protect both the river and the homeowners who build. Further, the acquisition by the Town of Brookhaven of lands within the study area to preserve open space will ensure that expansive developments are not built. Using the clustering technique for development will create consolidated housing and direct all development away from the land that needs to be preserved. The development of concentrated downtown areas needs to be encouraged so that there are walkable streets, storefronts with apartments, and mixed use buildings near public transportation to prevent further congestion and create a sense of place.

The changes being made to storm water infrastructure will have a positive impact on the waterways by preventing sewage waste from potentially contaminating surface water sources. Infrastructure improvements will also prepare the area to have an easier remediation process when flooding occurs.

Regulations given to new commercial sites will ensure transportation is more easily accessible for workers coming into the locations and that the developments will not disrupt the surrounding community. This will relieve the congestion that could be created with the expansion of businesses and the increase of commuters into the area.

Many questions have been raised concerning private property rights specifically in the areas of Pine Barrens Credits and proper compensation for the value of their land. Ongoing communication and potentially amended

versions of this plan may need to be put in place in order to address issues that may arise.

It is also important to note that the preservation of open space is only one form of a public benefit. Parks, safe streets, community centers, affordable housing, wastewater treatment, energy efficient infrastructure, affordable housing and other community amenities are typically requested under the public benefit portion of many proposals. The Brookhaven Town Board should be judicious in tilting the balance too far in one direction while community needs vary.

Overall, in conjunction with the recently approved multi-family housing code this proposed plan directs development away from land that holds environmental significance and needs to be preserved by changing zoning and preventing development from occurring on areas that ideally should not be built on. It encourages the creation of downtown areas in close proximity to transportation and protects our groundwater.

Most importantly this revised version is vastly superior to the earlier Carman's River Plan that left land use planning in the hands of planning bureaucrats and select special interests. The last plan, which had minimal public input, took the power away from duly elected officials and into the hands of unelected regulators and was defeated. Kudos to Bill Faulk in the Town of Brookhaven Planning Department as well as the Supervisor and all of the active Councilperson's who engaged in the debate to shape what is a very workable compromise.

APPENDIX E: Correspondence from Open Space and Farmland Committee

Open Space and Farmland Acquisition Advisory Committee Meeting of July 25th 2013

Committee resolution in support of the proposed Carmans River Conservation and Management Plan

E-1
G

WHEREAS, the Open Space and Farmland Acquisition Advisory Committee having met on July 25, 2013 specifically to cover the Carmans River Conservation and Management Plan; and

WHEREAS, after sufficient and comprehensive discussion; and

WHEREAS, the Brookhaven Town Board has extended its outreach to the general public; and

WHEREAS, the Town Board in its wisdom has conveyed this meeting on Tuesday, July 30, 2013; and

WHEREAS, the Open Space and Farmland Acquisition Advisory Committee wishes to be on record; and

BE IT THEREFORE RESOLVED, that the Open Space and Farmland Acquisition Advisory Committee, by resolution wishes to express its strong support for the Carmans River Conservation and Management Plan; and

BE IT FURTHER RESOLVED, that when the plan moves into an implementation phase, this Committee wishes to continue its participation in all further actions relative to the Carmans River.

Stephen Brown - Motion
Kathleen Matthews - Motion Seconded
Dr. Lee Koppelman - Aye
Dr. Herb Strobel - Aye
Mitch Pally, J.D. - Aye
Ira Brickman - Abstained
James Tripp, J.D. - Aye
Richard Berlinghof – Aye
Thomas B. Williams – Absent
Henry Bokuniewicz – Aye

RECEIVED
2013 JUL 31 PM 12 52
TOWN CLERK
TOWN OF BROOKHAVEN

Motion Approved

8 - Ayes

0 - Nays

1 - Abstention

APPENDIX F: Correspondence from Martin Van Lith

Martin Van Lith, 18 River Lane, Brookhaven, NY 11719

RECEIVED August 9, 2013

John Turner
Planning Division
Town of Brookhaven
One Independence Hill
Farmingville, NY 11713

AUG 12 2013

PLANNING DIVISION

Re: Comment on the Carmans River Conservation and Management Plan

Dear Mr. Turner,

I would like to point out that in the draft CRCMP's section titled "Maps," Figure 15 "Contaminant Plumes, Contaminants Sources and Active Spills" there is an omission. Missing from the map is what I believe to be the largest plume negatively affecting the Carmans River, that of the Brookhaven Town Landfill.


This leachate plume has been well documented by the Town since the 1980s and is still being actively monitored by the Town's consultant, Dvirka and Bartilucci. In 2008, Suffolk County Department of Health found ammonia levels, a leachate indicator, in Beaver Dam Creek to be 5-10 times above NY State limits. Further testing found that the leachate plume had entered Little Neck Run, a tributary to Carmans River.

Please add this known plume to the ten already listed on this map.

F-1
AM

Thank you.

Sincerely,



Martin Van Lith

APPENDIX G: Correspondence from Central Pine Barrens Joint Planning and Policy Commission



August 9, 2013

Town of Brookhaven
Office of Town Clerk
Attn: Ms. Patricia A. Eddington, LCSW, Town Clerk and Registrar
One Independence Hill
Farmingville, NY 11738

RECEIVED

2013 AUG 14 AM 9 42

TOWN CLERK
TOWN OF BROOKHAVEN

**RE: Carmans River Conservation and Management Plan, Draft July 2013
and Draft Generic Environmental Impact Statement for the
Carmans River Conservation and Management Plan, July 2013**

Peter A. Scully
Chair

Steven Bellone
Member

Edward P. Romaine
Member

Anna E. Throne-Holst
Member

Sean M. Walter
Member

Dear Ms. Eddington:

On June 4, 2013, the Central Pine Barrens Commission office received a referral of the Carmans River Conservation and Management Plan (the "Plan") dated June 2013 and Part I of the State Environmental Quality Review Environmental Assessment Form (EAF). The DGEIS dated July 2013 was downloaded from the Department of Planning and Environment page of the Town's website. A more recent version of the Plan dated "Draft July 2013" was also downloaded from the Department of Planning and Environment page of the Town's website.

The referral cover letter requested review of the Plan with respect to areas of expertise and jurisdiction to enhance the Plan or provide additional protection to the community. Comments on the Draft July 2013 Plan and Draft GEIS dated July 2013 are respectfully submitted for your review and consideration in order of sequence, Plan and DGEIS, and are intended to help strengthen both documents.

The Central Pine Barrens Commission does not object to the Brookhaven Town Board serving as the Lead Agency, pursuant to the State Environmental Quality Review Act (SEQRA). On June 11, 2013, the Commission's Executive Director, John W. Pavacic, signed and returned the SEQRA Lead Agency consent form as requested.

Comments on the Draft Carmans River Conservation and Management Plan, July 2013

624 Old Riverhead Road
Westhampton Beach, NY
11978

Phone (631) 288-1079
Fax (631) 288-1367
www.pb.state.ny.us

Executive Summary

1. The second sentence in the first full paragraph on page 20 of the Executive Summary states that the addition of certain properties to the Compatible Growth Area "...would prevent these properties from being developed by providing property owners with the opportunity to obtain Pine Barrens Credits..." Development is allowed in the Compatible Growth Area, so this statement should be corrected.

G-1
G

Chapter 4 – The Carmans River Management Plan

Groundwater Quality: Nitrate

1. The title of this section should be changed to “*Groundwater Quality: Nitrate and other Contaminants*” as the last paragraph on page 100 also discusses spills and other contaminants besides nitrate.

G-2
WQ

Stormwater

1. The last paragraph on page 101 indicates that the Town has mapped over 30 percent of its stormwater catch basins in the Management Plan Area and expected to complete the mapping of the remainder by the end of 2012. As it is now the middle of 2013, the status of the mapping of the remaining 70% of the catch basins should be determined and this section updated accordingly.

G-3
SW

Furthermore, this paragraph also indicates that interim mapping of stormwater infrastructure maintained by Suffolk County and NYSDOT is being conducted. This paragraph should state when this mapping effort is expected to be completed as well.

G-4
SW

Flooding at Middle Island

1. Pages 102 through 104 discuss the flooding situation along Middle Island Road north of Middle Country Road (State Route 25). This area was also discussed in the prior Carmans River Watershed Protection and Management Plan dated March 2012 on pages 36-37 of that document. Certain information in that discussion was not incorporated into the current plan and it is recommended that this be done. Additional information to be incorporated should include the statement that “*Historical information appears to indicate that at some time in the past there may have been a continuous surface water connection to the area north of the Middle Country Road*” and “*The flooding seems to be most pronounced during and after extended periods of above average precipitation which suggest high water table conditions and/or ground water mounding may be creating or contributing to the periodic flooding; the depth to groundwater appears to be about 16 inches in some areas.*”

G-5
SW

Nitrate in Surface Waters: Temporal Trends

1. The second sentence in the last paragraph on page 110 discusses a maximum nitrate concentration of 8.3 mg/l and appears to attribute this to the CDM report but this was actually derived from data collected by the USGS gauging station south of the LIRR in Yaphank. This discrepancy should be corrected. Furthermore, an entire paragraph on the USGS station and discussion of some of its data is found on page 33 of the prior Carmans River Watershed Protection and Management Plan dated March 2012 under the subsection “Long term trends in nitrogen” and should also be inserted here in the new document.

G-6
WQ

Restriction on Land Use: Pine Barrens Act

1. In the discussion on pages 129 to 131 the sentence beginning, “Property in the Pine Barrens Core...,” only mentions one part of the Credit Program concerning additional density on designated receiving sites, but it is not limited to just the as of right sites. There are incentive zoning provisions as well and Pine Barrens Credits (PBCs) can also be used for increased sanitary (intensity) through the Suffolk County Department of Health Services (SCDHS).

G-7
PB

Perhaps a statement should be added to include some of the other PBC redemption opportunities including but not limited to incentive zoning and redemption at the SCDHS for projects that increase land use density and/or intensity.

2. This section interprets the provisions of New York State Environmental Conservation Law (ECL) Article 57, specifically the development and “non-development” activities outlined in ECL §57-0107(13). Interpretations could create confusion and be misinterpreted by readers. The interpretations should be replaced with a reference to the source of information, which is ECL §57-0107(13). For example, on page 131, the statement that clearing is permitted on a residential parcel in the Compatible Growth Area may be misunderstood without at least a caveat to explain that other restrictions or regulations may apply including, but not limited to, Declaration(s) Covenants and Restrictions (C&Rs) and/or easements recorded in the Office of the Suffolk County Clerk and/or the Town that may restrict additional clearing, regardless of use, accessory or otherwise. Furthermore, care should be taken to distinguish parcels created after ECL Article 57 was enacted. If a parcel was created from a subdivision or a site plan approved after 1995 and therefore after both Article 57 and the CLUP were implemented, the CLUP clearing standards would have been applied and C&Rs that restrict clearing may have been imposed. As a result, potentially no additional clearing may be permitted without a hardship waiver from the Commission. Therefore, a simple reference to the applicable ECL Article 57 provisions is more direct, is more accurate and avoids misinterpretations and misunderstandings.

G-8
PB

3. In the context of actions that are “allowable,” a more accurate reference than the CLUP is New York State Environmental Conservation Law §57-0107(13), which defines development and “non-development” activities.

G-9
PB

Restriction on Land Use: New York State Wild, Scenic and Recreational Rivers Act

1. Item #4 in the discussion of Recreation River Restriction on page 133 incorrectly states that “Commercial structures are limited to light industrial...” All commercial and industrial uses are prohibited in Recreational River areas unless the use comprises “Retail or rental facilities directly associated with river recreation.” This should be corrected.

G-10
WSR

Restriction on Land Use

1. The document does not include other significant regulations which affect and may restrict land use. These include New York State Pollution Discharge Elimination System (SPDES), SCDHS Article 6 requirements and NYSDEC ECL Article 11 statute and regulations regarding endangered, threatened and special concern species.

G-11
LZ

Nitrate Concentration in a Development of Regional Significance (DRS)

1. In the discussion on page 140, it should be noted that some of the references to DRS criteria may change due to the Commission’s current Plan Amendments process. The Plan should reference the CLUP section, rather than listing the DRS criteria, as some of the criteria may be amended in the future. Moreover, the reference in the Plan may be an inaccurate interpretation of DRS criteria. The section of the CLUP that pertains to 2.5 ppm nitrate-nitrogen is currently a Guideline (5.3.3.1.3) in Chapter 5, and it does not reference the “property line,” as stated in the Plan.

G-12
PB

Living Resources of the Carmans River Management Plan Area – Ecological Communities

1. There are several ecological communities which are missing from those discussed on pages 145 – 148. These were identified in the prior Carmans River Watershed Protection and Management Plan dated March 2012 and can be found on page 52 of that document. The missing community types are Pitch pine-oak forest, Successional old fields and brackish tidal marsh. Accordingly, they should be added to and described in this section. G-13
NR
2. The New York Natural Heritage noted the rarity of the community types coastal plain ponds, red maple-black gum swamp and brackish tidal marsh. A paragraph which discussed their rarity is found on page 52 of the prior Carmans River Watershed Protection and Management Plan dated March 2012 and should be added here. G-14
NR

Aquatic Invasive Vegetation

1. The discussion on pages 157 to 158 is missing some information that was contained in the prior Carmans River Watershed Protection and Management Plan dated March 2012. Pages 47 to 49 of that plan contained a discussion of invasive species including *Phragmites* as well as additional information on fanwort and variable watermilfoil. Accordingly, the missing information should be added from pages 47 to 49 of the prior Carmans River Plan dated March 2012. G-15
NR

Birds

1. In the first paragraph of this subsection on page 163, the discussion is missing the reference to the Breeding Bird Atlas breeding census blocks found in the Carmans River watershed along with the overview of the discussion of bird species found in the prior Carmans River Watershed Protection and Management Plan dated March 2012. Accordingly, this paragraph, found on page 54 of the prior document, should be incorporated here. G-16
NR
2. This section is missing a discussion on trumpeter swans found at the top of page 55 of the prior Carmans River Watershed Protection and Management Plan dated March 2012. The presence of trumpeter swans is especially noteworthy and has been the subject of significant Yaphank community observations. Accordingly, that paragraph should be inserted here. G-17
NR
3. In the discussion of bald eagles in the first full paragraph on page 164 the discussion should be updated to note that bald eagles are now nesting in Wertheim National Wildlife Refuge. G-18
NR

Chapter 5 Management Plan Recommendations – 1. Expansion of the Central Pine Barrens Area

1. Recommendation A2 on page 171 provides the overall acreage and individual parcels of land involved in the proposed expansion of the CGA. The document should also provide the acreage of private land and number of private parcels in the expanded CGA. G-19
PB
2. Recommendations A and B on pages 171-172 refers to new CGA parcels. These should be mapped by the Town. A map should be prepared in accordance with the proposed metes and bounds description. Once complete, please forward the draft map to the Commission for review. G-20
PB

Furthermore, Recommendation B references Appendix B which in turn provides a listing of the tax map parcels included in the proposed expansion. An additional Appendix should be prepared and included which lists the tax parcels by “Expanded CGA South of the LIE,” “Expanded Core Area South of the LIE” and “Expanded Core Area North of the LIE.”

G-21
PB

3. Recommendation B on page 171 references Figure 27 which shows proposed CGA and Core Areas. However, the map in this figure does not distinguish existing CGA and Core from that which is proposed. Accordingly, an additional map should be prepared and included which depicts these distinct areas (existing Core, existing CGA, new Core and new CGA).
4. Recommendation C on page 172 discusses the properties proposed to be placed in an expanded Core Preservation Area. The following information should also be provided:

G-22
PB

Expanded Core south of the LIE

- Total acreage and total number of parcels proposed
- Acreage of private land and number of private parcels

G-23
PB

Expanded Core north of the LIE

- Total acreage and total number of parcels proposed
- Acreage of private land and number of private parcels

G-24
PB

Total Increase in the area of the Central Pine Barrens south of the LIE

- Which is equal to the Total new CGA area plus the Expanded Core Area south of the LIE

G-25
PB

5. Recommendation E on page 172 states that approximately 135 Pine Barrens Credits would be generated by the new Core expansion area. The Suffolk County Tax Map #, location, size, current zoning and ownership of the parcels from which the 135 Pine Barrens Credit figure was derived, along with a map of these parcels, should be provided so that the Commission can verify this projection and ensure that the allocation calculations are consistent with those in effect in Chapter 6 of the CLUP, Pine Barrens Credit Program.
6. Recommendation E also states that allocation of Pine Barrens Credits to these new Core parcels should be based on existing zoning as of the date of the Carmans River Management and Conservation Plan. As the existing CLUP refers to a parcel’s zoning status as of 1995, it should be noted that the Town would need to make a recommendation to the Central Pine Barrens Commission that Pine Barrens Credit allocation zoning status, only for the Carmans Core expansion area parcels, be changed accordingly. It should be noted that other adjustments to the CLUP may be required as well.
7. In Recommendation E, please conduct a credit analysis and, as part of that analysis, identify receiving sites as well as potential impacts on the existing credit program. The Town should also present this proposal to both the Commission and the Credit Clearinghouse, which is an advisory board to the Commission, to explain any new obligations, responsibilities, and jurisdiction under the Carmans Plan.
8. Recommendation F on page 173 states that the Town should make a request to the Commission to amend the CLUP to incorporate the new CGA and Core lands and the Carmans Plan recommendations. Any proposed amendments to the CLUP should be

G-26
PB

G-27
PB

G-28
PB

G-29
PB

specifically identified and officially presented to the Central Pine Barrens Commission for its review and consideration.

Furthermore, it is important to recognize that the proposed amendments result in expansions of the Commission's jurisdictional boundaries and responsibilities. As a result, the Commission will have the authority to receive and review hardship applications and requests for Letters of Interpretation for Pine Barrens Credit allocations from the new Core area. In addition, in the expansion areas the Commission will have the ability to conduct review of development projects for conformance with the CLUP, undertake compliance and enforcement efforts pursuant to Article 57 and coordinate science and stewardship initiatives with land managers.

G-30
PB

9. Recommendation G on page 173 notes that the Town has adopted a new MF Zoning category to increase redemption of Pine Barrens Credits and should continue to develop innovative ways to redeem Pine Barrens Credits. It is recommended that the Town explore means of mandating Pine Barrens Credit redemption, especially in the CGA, and implement such measures.

G-31
PB

Chapter 5 Management Plan Recommendations – 2. Proposed Open Space and Farmland Development Rights Acquisitions

1. The specific parcels proposed for acquisition which are depicted in Figure 28 should be listed by name, size, location and tax map number in the body of this section to ensure there is clear understanding of these sites and their relative priorities.
2. Page 8 of the DGEIS states that the Carmans Plan "...provides for ranking parcels as either Primary or Secondary acquisition rankings." However, these have not been discussed or listed in this section of the Carmans Plan. Accordingly, the Carmans Plan should discuss and address this matter.
3. In Recommendation 2A on pages 174-175 additional language should be added to emphasize that the Town will utilize acquisition as the key method to protect open space in the Carmans River Watershed and that acquisition of open space in the Carmans River Watershed has a higher priority than any other Town acquisition program. In fact, on page 56, subsection 3.1.5.1 (Pine Barrens Credit Program) in the DGEIS, that document cites the goal of the 1995 CLUP that fee simple acquisition be used as the primary method of preserving land in the Central Pine Barrens and recommends that method be given priority in the Carmans River watershed. The DGEIS goes on to state that "*The goal of the PBC redemption for the Town of Brookhaven continues to be 75% acquisition of the lands within the Core Preservation Area.*" Accordingly, that goal should be restated here as well. This is consistent with the statement in Section 1, subsection E(2) on page 173.
4. The last paragraph in the introduction to this section on page 174 discusses preservation of open space through the Joseph Macchia Environmental Reserve Fund. The Pine Barrens Credit Program, based on Chapter 6 of the CLUP, is regional and should be the priority TDR program for areas both inside and outside of the Central Pine Barrens.
5. The last paragraph in the introduction on page 174 states:

"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 application for change of zone that apply for a more restrictive land use that are approved by the Town Board.”

However, this statement does not indicate whether or not the Macchia fund is dedicated solely to the purchase of open space in the Carmans River watershed or whether or not the Macchia fund has been structured so that first priority for expenditure of its funds is given to open space in the Carmans River watershed. The purchase of PBCs, especially for rezoning and development projects in the CGA, should be prioritized over applying mitigation fees under the Town’s Land Use Intensification Mitigation fee.

G-36
AP

Chapter 5 Management Plan Recommendations – 3. Proposed Zoning Actions in the Study Area

1. Recommendation A on page 175 references Figure 29 and recommends rezoning parcels in the Management Plan Area. The Carmans Plan should clarify whether the zone change becomes effective immediately, or if there is a “grace” period granted to the owner during which he or she can build in accordance with the zoning requirements in existence prior to the upzoning (e.g., three years has been applied in other Towns).
2. For Recommendations B and C the Carmans Plan should analyze the proposed rezoning actions as they relate to conformance with the CLUP. Any rezoning must be consistent with the CLUP and not adversely impact the provisions of the CLUP.

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G-38
LZ

Chapter 5 Management Plan Recommendations – 7. Stormwater and Flooding

1. Recommendation 7D proposes reduction and/or elimination of illicit stormwater discharge from existing development via Best Management Practices. However, given that these are illicit or illegal, enforcement should also be included as an additional measure to ensure modification or removal of such discharges occur to ensure compliance with existing Federal, State and Town stormwater regulations and requirements and to ensure protection of the Carmans River.
2. Pages 75 to 77 of The Carmans River Watershed Protection and Management Plan dated March 2012 proposed a matrix of site-specific stormwater mitigation improvements to be undertaken at 21 outfall sites in the Carmans River watershed. These were viewed as significant, concrete measures to be implemented by the Carmans River Study Group and should be incorporated into the current Carmans Plan.
3. This section should note that the drainage pipe at the identified start of flow of the Carmans, south of the Longwood Public Library in Middle Island, should be fixed or redirected away from the Carmans River. Correction of this condition was initiated on August 23, 2010 by the Commission’s Executive Director, John Pavacic, in a letter to the Town of Brookhaven and the Regional Director of the New York State Department of Transportation (NYS DOT). By letter dated September 13, 2010, Sheref Fathi, P.E., of NYS DOT responded to Mr. Pavacic that they would make every effort to correct the situation. On October 4, 2010, representatives of NYS DOT and the former Executive Director of the Library met at the site and exchanged information to resolve this matter. The current status of the project is unclear. This project should continue to be actively pursued by the Town, Library, and NYS Department of Transportation.

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SW

G-41
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Chapter 5 Management Plan Recommendations – 9. Water Quality Goal for the Carmans River

1. This section, on pages 183 – 185, should specify the existing water quality at various points in the River to be used as the baseline for a “nondegradation” standard. The water quality measurements should be taken currently to establish a baseline against which future monitoring measurements can be compared to allow quantitative measurement of potential water quality impacts over time. G-42
WQ
2. Recommendation A on page 184. Clarify that the 1.27 mg/l total nitrogen and 1.0 mg/l nitrate nitrogen are the nondegradation goal standards. Please specify the source of information from which these concentrations are derived. G-43
WQ
3. In Recommendation B on page 184, identify the water quality sample data sets which will be used to measure water quality in any Carmans River segment, and specify over what time period the “mean” will be calculated. G-44
WQ
4. State that implementation of other Recommendations 1 through 8 and 10 through 18 are the measures to achieve success – maintenance of water quality at or below the 1.27 mg/l total nitrogen goal and at or below the 1.0 mg/l nitrate nitrogen goal. G-45
WQ

Chapter 5 Management Plan Recommendations – 10. Water Quality Monitoring Program

1. The Plan should identify funding for any proposed sampling and monitoring program; identify Town Departments, Town staff and other agencies who will perform sampling, manage data collection efforts and analyze the data; identify compliance and enforcement reporting measures to be implemented in response to detection of a water quality impact; how to rectify deviations from the standard; identify penalties and how to identify and cite responsible parties. If measurements from samples are not consistent with the goals established in the Plan, describe the consequences, public notifications (if any) and remediation measures to be instituted to ensure goals will be met within a specified timeframe. G-46
WQ

Chapter 5 Management Plan Recommendations – 18. Management Plan Implementation and Establishment of the Carmans River Management Plan Performance Committee

1. Identify the entity which will appoint the Committee. G-47
G
2. All applicable mitigation measures identified in Chapter 5 should be listed here as being under the purview of the committee. G-48
G
3. In Recommendation 18D, the source of the “recommendations to improve the effectiveness of the preservation efforts and the redemption of Pine Barrens Credits...” should be identified. Furthermore, stronger measures should be proposed to ensure implementation of the mitigation measures is occurring and to address situations when preservation efforts have not been deemed to be effective by the committee. G-49
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Miscellaneous Comments on the Plan

1. MCRLUP: The Plan should evaluate how it is consistent with and how it impacts or conflicts with the Town’s adopted Final 2006 Middle Country Road Land Use Plan for

Coram, Middle Island and Ridge (MCRLUP) and any other relevant adopted land use plans in the Carmans River Management Plan Area. In accordance with Section 617.9(a)(7) of the SEQRA regulations, a Supplemental EIS may be required when specific adverse environmental impacts not addressed in the MCRLUP's EIS arise from newly discovered information. The MCRLUP's recommendations on zone changes and proposals to increase land use density or intensity on certain parcels in the now delineated Carmans River Management Plan Area may need to be re-examined for conformance and amended accordingly.

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2. Management Plan Area Description Discrepancies: In some sections, the location of the land area that is covered by the draft Carmans River Plan is not clear and therefore it is not possible to review some of the elements in the Carmans River Plan in their proper context. A clear distinction should be made between the original Carmans River Study Area, which encompassed areas outside the 100-year groundwater contributing area north of Middle Country Road (State Route 25), and the currently proposed Management Plan Area. For example, on page 170, it is recommended that a map be prepared that reflects the "Management Plan Area" boundaries shown in Figure 4a. However, the Figure 4a map is entitled "Groundwater Contributing Area..." and its legend does not indicate a "Management Plan Area." To compound the confusion, Figure 4 shows a map of a "Study Area" and the legend shows a green outline of the "Carmans Management Plan Area" that is different from the map shown on Figure 4a in that Figure 4 also includes the area north of Middle Country Road. The map in Figure 1 also shows a green "Carmans Management Plan Area" boundary that appears to be inconsistent with descriptions of the Management Plan Area in the DGEIS and elsewhere in the draft Carmans River Plan..
3. Maps: Notes on a number of the maps are illegible and there are many irregularities and inconsistencies.
4. Central Pine Barrens Expansion Area: It appears that some of the parcels listed to be added to the Core Preservation Area are shown as already in the Core. For example, Robinson Duck Farm County Park is currently completely outside of the Central Pine Barrens yet is shown as being within the existing Core. The Commission should have the opportunity to review the proposed description of the expansion area and to work with the Town to reconcile these discrepancies.
5. Acquisitions: New public land acquisitions and existing Town holdings should be dedicated to the Town Nature Preserve system to ensure protection of sensitive habitats and resources.
6. Public Lands Protection, Restoration, & Management: The Central Pine Barrens Commission's Protected Lands Council prepared a report in January 2011 entitled "Stewardship of Public Lands in the Upper Carmans River Watershed: Recommendations" ("PLC Plan") that provides many recommendations that should be incorporated into the Carmans River Plan and applied throughout the entire Carmans River watershed study area. These recommendations include measures to protect and restore the region's ecosystems that have been degraded by invasive species, dumping, illegal ATV/ORV use, improve surface and groundwater quality, restore and protect scenic, historic, and archaeological resources, and promote opportunities for compatible, nondestructive, open space dependent uses, education, scientific research, and tourism.

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The PLC Plan recommends strong design standards to protect and restore the historic and scenic character of the region and to transform the area into a place that "looks, feels, and

G-57
NR

functions more like the Preserve that it is,” and it offers specific measures that the Town can employ through existing and new programs.

As recommended in this PLC Plan, Town land managers should increase their participation in cooperative public lands management efforts with the Commission and other public landowners, and cooperative agreements should be established. Town Departments involved in planning, management, and protection of public lands should cooperate including, but not limited to the Planning Department, Environmental Division, Land Management Division, Parks Department, Highway Department, and the Town Historian.

G-58
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Comments on the Draft Generic Environmental Impact Statement (DGEIS) for the Carmans River Conservation and Management Plan, July 2013

General Comments

1. There is information in the Carmans Plan which is missing from this DGEIS and information in the DGEIS which is missing from the Carmans Plan, particularly in the Natural Resources sections. Both documents should be made consistent with one another. Furthermore, comments made on the Carmans Plan should also be addressed in corresponding sections of the DGEIS

G-59
SEQ

1.0 Description of the Proposed Action

Section 1.2.2 Land Use and Zoning, Benefits.

1. It should be noted that the ZBA cannot grant variances for parcels in the Central Pine Barrens area that would contravene the Central Pine Barrens standards contained in Town code and the CLUP.

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Section 1.4 Management Plan Area, Overview.

1. Note that additions to the CGA not only will benefit from the standards related to clearing and fertilizer dependent vegetation but also all of the standards and guidelines that protect habitat, surface water and groundwater.

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Section 1.5 NYS Senate Bill S. 057272 & NYS Assembly Bill A. 07905; June 7, 2013.

1. Page 16 of this section discusses implementation procedures and amendments to the Pine Barrens Act and the Central Pine Barrens Comprehensive Land Use Plan (CLUP). Any sections that require amendments should be specifically identified and presented to the Commission for review in the CLUP Amendments process.

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In the last sentence of the third paragraph on page 16 the statement should include not only the standards for clearing and fertilizer but note all of the Pine Barrens standards and guidelines.

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2. In the "Implementation Procedures" subsection on page 16 and 17, the first sentence of this subsection states that "*the Plan must be approved by the Central Pine Barrens Joint Planning and Policy Commission.*" More importantly, sections of the Town's Carmans Plan which are under the jurisdiction of the Commission would need to be approved by the Commission as formal amendments to the CLUP.

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The second sentence of this subsection states "Once the Plan has been ratified, the Town of Brookhaven shall adopt it as an amendment to the Pine Barrens Act as per Section 57-0121 of the Comprehensive Land Use Plan (CLUP)." This statement is incorrect. Only the New York State Legislature has the authority to adopt amendments to the Long Island Pine Barrens Protection Act and Section 57-0121 is not a section of the CLUP but a section of the Act. Furthermore, the Town Board would adopt an amendment to the

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Central Pine Barrens section of its land use code in order to implement the Commission-approved CLUP amendments.

Finally, the third sentence of this subsection refers to an amendment to the Pine Barrens Act to be implemented by the Town. This is incorrect as the Town would be implementing an amendment to the CLUP.

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3. Subsection 1.5.3 discusses the properties proposed to be placed in an expanded Core Preservation Area. The following information should also be provided:

Expanded Core south of the LIE

- Total acreage and total number of parcels proposed

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Expanded Core north of the LIE

- Total acreage and total number of parcels proposed

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Total Increase in the area of the Central Pine Barrens south of the LIE

- Which is equal to the Total new CGA area plus the Expanded Core Area south of the LIE

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4. Subsection 1.5.4 discusses what other measures the Town has taken to offer additional means for the redemption of Pine Barrens Credits and evaluate impacts to receiving area ratios due to the implementation of this Plan. However, these specific measures are not outlined and should be described and explained here.

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2.0 Natural Resources

2.3 Groundwater Movement and Quality

1. In the nutrient inputs discussion on pages 23 through 27, the Plan should not permit any new Sewage Treatment Plants to be developed in the management plan area in accordance with current CLUP standard 5.3.3.1.2 which states “*where deemed practical by the County or State, sewage treatment plan discharge shall be outside and downgradient of the Central Pine Barrens.*” It should be noted that one indicator that a proposed project may need an STP is if it proposes an increase in density or intensity, beyond the as of right use, that also exceeds Suffolk County Department of Health Services standards. Increases in land use density or intensity should be discouraged in the Management Plan area.

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2.4 River Segments & Quality.

1. In the discussion on page 27, the drainage pipe at the identified start of flow of the Carmans, south of the Longwood Public Library in Middle Island, should be fixed or redirected away from the Carmans River. Correction of this condition was initiated on August 23, 2010 by the Commission’s Executive Director, John Pavacic, in a letter to the Town of Brookhaven and the Regional Director of the New York State Department of Transportation (NYS DOT). By letter dated September 13, 2010, Sheref Fathi, P.E., of NYS DOT responded to Mr. Pavacic that they would make every effort to correct the situation. On October 4, 2010, representatives of NYS DOT and the former Executive Director of the Library met at the site and exchanged information to resolve this matter. The current status of the project is unclear. This project should continue to be actively pursued by the Town, Library, and NYS Department of Transportation.

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2.6 Aquatic Ecology

1. In the discussion on pages 37-41 the DGEIS should address the current implementation of the Carmans River dredging initiative and potential impacts, beneficial and adverse, that it may have on the Carmans River and its aquatic and benthic species and habitats. For example, this section discusses the important role of benthic macroinvertebrates in the “functioning of freshwater ecosystems and direct affects on human welfare.” Dredging activity in the Carmans River may result in impacts on aquatic insects. The Plan should address proposed dredging activity in the Carmans River as it relates to protection of and potential impacts on macroinvertebrate resources in the River.

G-73
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Miscellaneous Comments on this Section

1. The discussion of potential impacts to natural resources should be more explicit as to why/what elements of the Plan, when implemented, would prevent impacts from occurring or should refer to information in Section 1 where some of this information is discussed. This is not consistently done throughout this section

G-74
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3.0 **Human Environment**

3.1.5 Pine Barrens

1. The original date of the CLUP is 1995; the revision date is 1996. When the document refers to the revision date, it may be more accurate to refer to it as “the CLUP dated 1995, as amended in 1996.”
2. Besides stating that “development is prohibited in the Core unless a hardship waiver is obtained,” it should also be noted that actions in the Core that meet the definition of non-development as per ECL §57-0107.13 or, as per ECL §57-0107.13(x), are listed on a residential roadfront exemption list contained in the CLUP are also permitted to occur in the Core.
3. PBC’s should be PBCs.
4. Discuss how the financial resources collected in the Macchia Fund will benefit the Carmans Plan. For example, will the Macchia Funds be used exclusively for purchase of open space in the Carmans River Watershed or will the Macchia Fund be prioritized for Carmans River Watershed open space acquisitions. If not, the document should discuss how the Macchia Fund may impact the credit program.

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G-77
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3.1.6 Zoning

1. Any community-wide rezoning actions must conform to the CLUP. Analyze any proposed rezoning actions to confirm that they are no less restrictive than what is permitted under current zoning. For example, no rezoning actions can occur which will allow the Vegetation Clearance Limit standard to be exceeded or which allow clearing beyond the current CLUP limit. Town regulations may be more restrictive, but cannot be less restrictive than the CLUP. A hamlet-wide or “management plan area-wide” rezoning must include an analysis of conformance with existing regulations.

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2. Please clarify if the “Total” column refers to public and private land in each zoning district (A2, A5, and A10). The table includes the “Private” land in each district, so can it be assumed that the remainder is the amount of “Public” land in each district?

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LZ

3.7.1 Economics

1. Discuss potential impacts of proposed rezoning on existing Receiving Areas and the credit program.

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Miscellaneous Comments on the DGEIS

1. The Plan identifies a variety of “Recommendations” that support the proposed actions such as rezonings and the Core expansion. The DGEIS should review and assess each “Recommendation,” discuss implementation, benefits, and impacts, funding and management. For example, water quality sampling and outreach activities are recommended. To follow-up on those “Recommendations,” identify the responsible parties to conduct these activities, standardized sampling methods, baseline data, and timelines for implementation.
2. Provide a timeline as to when the Draft Plan will be finalized and a schedule for preparation of SEQRA documentation for the project, including the Findings Statement and implementation of the Final Plan.

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G-83
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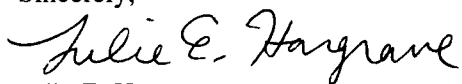
6.0 Future Environmental Review

Instead of merely restating the content of the GEIS section of the SEQRA regulations, this section should enumerate the specific performance standards against which future actions will be measured and assessed to determine whether or not additional environmental impact analysis and review is required. These performance standards can be adapted from the recommendations and mitigation measures described in Chapter 5 of the Carmans Plan.

G-84
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Thank you for your attention to these comments, and if you have any questions, please do not hesitate to contact this office.

Sincerely,



Julie E. Hargrave

Senior Environmental Planner

cc: John W. Pavacic, Executive Director, CPBJP & P Commission
Judith Jakobsen, Policy and Planning Manager, CPBJP & P Commission
Ann Carter, Science and Stewardship Coordinator, CPBJP & P Commission
John Milazzo, Counsel to the CPBJP & P Commission
Tullio Bertoli, APA, AICP, LEED, Commissioner, Town of Brookhaven Dept. of
Planning and Environment
Brenda Prusinowski, AICP, Chief Deputy Commissioner, Town of Brookhaven Dept. of
Planning and Environment

APPENDIX H: Correspondence from Long Island Pine Barrens Society and Nature Conservancy

August 20, 2013

AUG 20 2013

Supervisor Edward P Romaine and Members of the Town Board
One Independence Hill
Farmingville NY

Dear Supervisor Romaine and Members of the Town Board:

The Nature Conservancy on Long Island and the Long Island Pine Barrens Society commend Brookhaven Town Supervisor Romaine and members of the Town Board for the completion of the draft Carmans River Conservation and Management Plan, now under consideration. We urge you to adopt and implement the plan at your earliest opportunity.

The Nature Conservancy and Pine Barrens Society have worked tirelessly with the study group, town officials, and through different iterations of the Carmans River Protection Plan; and are pleased that a plan acceptable to the residents of the town is at hand. We have consistently supported this effort since it contributes to three critical conservation outcomes: protection of more Pine Barrens habitat, of river water quality and, by that, better protection of water quality and coastal habitat in and around the Great South Bay.

Greater protection of the Carmans River watershed affords similar benefits to town residents: 1) recreational opportunities from the protection of an additional 1,500 to 2,000 acres of Pine Barrens forest within close proximity to the river— 2) protection of river water quality by reducing future pollution, and 3) assurances that future pollution of the Great South Bay will be less than might have been the case.

This plan embodies two main objectives: 1) limit future pollutant impacts and 2) over time, mitigate existing known sources of pollution that continue to threaten water quality. Both of these outcomes are essential for success.

The Nature Conservancy and Pine Barrens Society endorse the goals of the Plan. While all the recommendations of the Plan meant to implement the goals, are important, we list the Plan's 19 recommendations and highlight those of particular relevance to The Nature Conservancy's and Pine Barrens Society's on-going focus on protecting land and water quality:

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- 1. Expansion of the Central Pine Barrens Area**
- 2. Proposed open space and farmland development rights acquisitions**
3. Proposed zoning actions in the Study Area
4. New York State Wild and Scenic Recreational River (WSR) Act
- 5. Establishment of a Watershed Protection Improvement District**
6. Protection of natural resources
7. Stormwater and flooding

8. Sanitary systems and sewage treatment plants and Nitrate-nitrogen Standards for projects

9. Water quality goal for the Carmen's River

10. Water quality monitoring program

11. Biological inventories and monitoring

12. Invasive species

13. Restoration of degraded properties

14. Surface and groundwater remediation

15. Mitigate barriers to fish migration

16. Public education and outreach

17. Agricultural and golf course management

18. Management Plan Implementation and Establishment of the Carmen's River Management Plan Performance Committee.

To assist in achieving the various recommendations above, we recommend that the following parcels of land be added to the acquisition list so that they can be eligible for protection. Collectively, they represent an enhancement of the preservation area that would add still more recreational opportunities to this plan and help reduce future pollution from development in the watershed of the Carmans River:

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- Rocky Point School (forested tract)
- Sam Glass Property
- Sandy Hills Property
- Farmland- a property the county currently owns the development rights to but should farming of the land stop, acquisition by the town would be appropriate/necessary and the site should be restored
- Middle Island Golf Course
- Southaven County Park West-
- Parcel A DPW- appears to have been moved into CGA but should be in core
- Silveri Property
- Old File Map lands
- Johnston Property

We also recommend that the planning and implementation process intentionally set new performance standards to guide any new development or redevelopment in the 100 year groundwater zone of influence to the river. This would contribute to reducing nitrogen and other pollutants. A series of proposed zoning actions outlined in the plan would assist, in this regard.

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Additionally, we strongly recommend that the town seek access to the Suffolk County septic system upgrade funds under the ¼% drinking water protection program to pilot the next generation of on-site waste disposal technology upgrades near Main Street in Yaphank as its first implementation area.

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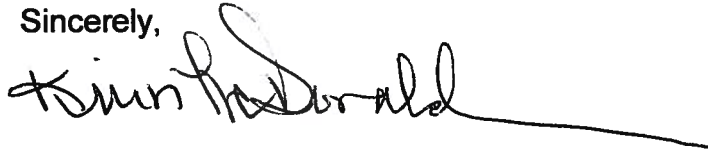
Used in combination with the watershed improvement funds, homeowners would be able to finance a series of improvements to their property-- including actions that would retire older polluting practices and technologies in favor of more current, less polluting ones. The Town's efforts to create such a pilot program would have the much needed benefit of promoting faster reviews and approvals for residential denitrifying systems by the Suffolk County Health Department, an essential and critically needed outcome at this time.

We strongly support creation of the performance implementation committee. Bringing a series of recommendations into action will require the commitment of a team of dedicated people that actually can make this draft plan operational.

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We appreciate the opportunity to present our thoughts on the Draft Carmen's River Watershed Protection Plan to Town Board and look forward to its swift approval and decisive implementation over the coming months and years.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Donald", with a long horizontal line extending to the right.

The Nature Conservancy on Long Island

A handwritten signature in blue ink, appearing to read "Suzanne Hub", with a long horizontal line extending to the right.

The Long Island Pine Barrens Society

APPENDIX I: Correspondence from East Moriches Property Owners Association

East Moriches Property Owners Association, Inc.

August 20, 2013

Town Board
Town of Brookhaven
One Independence Hill
Farmingville NY 11738

By email to Patricia Eddington, Town Clerk

Comments on Adoption of
the Carmans River Conservation and Management Plan
and SEQRA Draft Generic Environmental Impact Statement

Ladies and Gentlemen:

We are providing the additional comments that we said in our July 30, 2013 letter that we could make on the Carmans River Plan and the DGEIS for it. Naturally, we continue to urge consideration of the objections made in our earlier letter and which I made at the July 16 Town Board meeting.

Attached is a copy of portions of the plan with specific comments on certain sections. Also attached are improved language for "recommendation" 3.D and our specific comments on Appendix D to the Plan, the Acquisition Prioritization Framework. Fuller discussion of certain of our comments is presented below. In commenting, we are assuming that the changes to the Plan predicted by Town representatives at the July 30 hearing will be implemented and we will have an opportunity to comment further once they are made public.

Impacts of Expanding the Pine Barrens Core

At the July 30 hearing, the Law Department took up a considerable amount of time presenting data, in the most inefficient way, on the history of Pine Barrens Credits to date. The stated purpose of Law's exercise was to rebut the argument said to have been raised at information sessions, that the Plan would lead to massive over-development.

BOARD OF DIRECTORS: ROY REYNOLDS (President), JIM GLEASON (VICE-PRESIDENT), SUSAN DISARIO (Corresponding Secretary), CAROLINE CASHMAN (Treasurer and Recording Secretary), MICHELE BARON, STEVE KEEGAN, ANDREA SPILKA, LAUREN STILES

empoa@suffolk.lib.ny.us
P.O. Box 155, East Moriches, New York 11940

The argument had not been made to our knowledge. The related point that EMPOA raised has not been addressed, namely, that the failure to address the potential impacts of the Core expansion is a clear SEQRA violation. While the historic data provided might be part of the story, it surely is not the whole story. Extrapolating from the past to the future is only valid when conditions remain the same. When they change, adjustments must be made for the changes if possible. If adjustments are not possible, the extrapolation should be abandoned.

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Law's presentations on July 30 ignored the following changed circumstances and an anomaly:

1. The Town, the County and the State governments are all in a financial binds. The funds once available for open space acquisition are not available any more. The Town's mortgage tax revenues are seriously off. The County's sales tax revenues are down and it is backing away from open space acquisitions of yore. The State suffers similarly.
2. Previously, the Town had \$100 million in bond proceeds and other funds available for open space acquisition. The Town's open space bond funds are about used up. No new bonds are being contemplated. The Macchia Fund is only starting to be built up by the Land Use Intensification Mitigation Fee.
3. Things have changed in a big way, so projecting a continuing 70 percent acquisition of Core property for which credits have been issued is without foundation.
4. In connections with hearings and discussions on the recent Multi-Family Code amendments, the reason given for them was that the old code was not being used and we needed to have more multi-family housing. Representatives of the Long Island Builders Institute testified in favor of the amendments. As a result, old data regarding the number of MF applications and their approval rate cannot be automatically transposed into the future.
5. New construction has been depressed for several years. Signs of resurgence can be seen, but blind use of past data on Pine Barrens Credit absorption cannot be justified in trying to predict the future.
6. The issuance of 135 additional Pine Barrens Credits with 579 already outstanding—a 24 percent increase—should itself affect absorption of credits. A batch of new credits should lower the credits' price and thereby encourage additional development.

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7. The Pine Barrens Credit market, on the other hand, does not appear efficient. Despite lower redemption rates of late, the price has remained steady. And one holder, it is said, owns half the outstanding credits and does not want to use or sell them. That owner is now suing the Town and other government entities regarding its holdings. These circumstances are likely to affect the future of the credit market.

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As a result, Law's conclusion from history that at worst 150 MF units will be built as a result of the Core expansion is invalid. A new, complete analysis under SEQRA of the impact of expanding the Core must be developed and shared with the public well before the scheduled October 15 hearing.

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Water Quality

The testimony at the July 30 hearing was encouraging on water quality issues. However, we will have to review a revised plan to be able to comment further.

Focusing the ZBA

Upzonings will not achieve their intended effect if they are largely undone by a series of variances. Some variances may be expected under the standards of Town Law § 267-b, but in ruling on variance requests the Board of Zoning Appeals must also assess the variance's effects on the "health, safety and welfare" of the community as provided in that statute. The language proposed in Recommendation 3.D is not likely to succeed in focusing the ZBA members on the Plan which has at its core the purpose of protecting the "health, safety and welfare" of the community.

We are submitting replacement language (Attachment A to the detailed comments) intended to focus the ZBA's attention on the Management Plan when it has before it an application on property in the Watershed. It does this without altering the standards for the ZBA's decision set forth in Town Law 67-b.¹

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¹ This approach is taken because the Court of Appeals has said the state statutory standards must be employed. *Cohen v. Bd. Of Appeal*, 100 N.Y.2d 395, 764 N.Y.S.2d 64, 795 N.E.2d 619 (2003). It has not said, as far as we can determine, that other aspects of the ZBA's proceedings cannot be prescribed by the Town. In fact, the opposite is true. One commentator observed:

"The details of [zoning] board [of appeals] organization are not prescribed by statute. The enabling acts draw broad lines, leaving the details to be worked out by local law or ordinance, or through the rule-making power of the boards themselves." Salkin, 2 *N.Y. Zoning Law & Prac.* § 27:18 (2012).

In submitting the replacement, we do not suggest that it cannot be refined and improved. We submit, however, that it is much more likely to achieve the intended result than what has been proposed.

Acquisition Prioritization Framework

A way of prioritizing potential open space acquisitions in the Watershed is presented in Appendix D of the proposed plan. In Attachment B to our detailed comments, we have presented a number of ways of improving the rating system offered.

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A concern of particular significance about the current proposal derives from a fundamental fact, namely, that the Town is now short of funds. Without changed circumstances, there will not be enough money to buy the properties proposed for acquisition in the Watershed, let alone those properties and other properties elsewhere in Town that are worthy of open space acquisition. In fact, the Town's representatives have estimated the cost of the Watershed acquisitions as being around \$80 million.

Properties that are going into the enlarged Pine Barrens Core will have protection in about 3 months, on January 1, 2014. Scarce funds should not be spent on them. A primary and overriding prioritization principle should be that properties in the Core do not have priority over properties outside the Core that are worthy of acquisition.

Conclusion

We are encouraged that some progress has been made in improving the proposed plan, and ask that it continue until a complete plan has been prepared utilizing these and other comments received.

Respectfully yours,


Jim Gleason, Vice President and Director
For the Board of Directors

CHAPTER 5: MANAGEMENT PLAN (RECOMMENDATIONS)

Carmans River Management Plan Recommendations

Comment [JG1]: See #1 in 7/30/13 EMPOA letter.

(These recommendations) were developed to meet the numerous 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 recommended strategy. In addition, some of the recommendations require Brookhaven Town funding and hence their implementation is subject to the availability of funds and approval by the Town Board. It should be noted that the recommendations also reflect the amendment to the Pine Barrens Protection Act (Appendix A).

Comment [JG2]: In a plan of action section, introductory explanations are unnecessary, get in the way of a clear presentation of what is to be done, and can create unintended inconsistencies when an action is described using different language in the introduction and in the action point.

THIS COMMENT APPLIES TO ALL "RECOMMENDATION" SECTIONS.

What would be best is a series of actions to be taken listed in outline form—pretty much the form now being used but without the introductory material in each section.

The Carmans River Management Plan Area encompass that area within the 0 to 2 and 2 to 5 year groundwater time of travel contributing area to the Carmans River, which include the areas that may 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.

It should be noted that while 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, some of the recommended strategies have relevance to the entire Study Area. The Study area consists of the 100 year groundwater contributing area

1. Expansion of the Central Pine Barrens Area

In order to provide greater protection to the Carmans River and its groundwater contributing areas, it is recommended that the Central Pine Barrens Protection Act be amended to include lands within the 0 to 2 and 2 to 5 year groundwater contributing areas of the Management Plan Area. Expansion of the Central Pine Barrens boundaries to include lands south of the Long Island

Comment [JG3]: This whole section needs updating since the expanded definitions of the Central Pine Barrens area and of the Core have become law. It should be moved to Chapter 4, except for part of 1.E.2 and the last sentence of 1.G..

Expressway, between Yaphank Avenue and William Floyd Parkway will bring properties in this area under the jurisdiction of the Land Use Standards and Guidelines that govern development with the Compatible Growth Area of the Central Pine Barrens. These standards and guidelines include clearing limitations, fertilizer dependent vegetation limitations, preservation of steep slopes and an overall reduction in nitrate concentrations. Similarly, expansion of the Core Preservation Area will ensure that undeveloped properties within the Management Plan Area will be preserved as development is generally prohibited within the Core Preservation Area.

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 2,185 acres of land consisting of 2,941 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 proposed for inclusion in the Compatible Growth 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 is provided in Appendix B. A metes and bounds description areas of the Pine Barrens proposed to be expanded has been prepared and provided in Appendix C and is subject to approval by the New

I-14
PB

Comment [JG4]: Since the property was designed to comply with Pine Barrens standards, it should be included in the Pine Barrens. There would be no downside to the owner since it is developed, and there would be protection in the future for water quality. Any other properties that have been excluded from the area described in A.1 should also be identified and the reasons for their exclusion explained.

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 1,600 acres of land and includes approximately 587 parcels. Approximately 487 acres are privately-owned and 1,173 acres are publicly-owned property.
4. An exemption to the boundary expansion includes the parcel known as the Dorade Sewage Treatment Plant.

I-15
PB

Comment [JG5]: If there is a compelling reason for this exemption, it should be explained, if not, the property should be included to achieve protection for water quality in connection with any future development. Any other properties that have been excluded from the area described in C.1 and C.2 should also be identified and the reasons for their exclusion explained.

D. Parcels proposed 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 and is provide in Appendix C and 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 135 credits will be made available based on the current zoning of the parcels, the size of the parcels and

I-16
PB

Comment [JG6]: Isn't the allocation basis covered in the Pine Barrens Plan? It should be referenced rather than proposing a standard for allocation.

- the location of the parcels.
2. [The fee simple acquisition of lands is the principal protection measure]
[Establish a goal of credit redemption of 75% acquisition of the lands within the Core Preservation Area]
 3. 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.

I-17
PB

Comment [JG7]: Not really. The Pine Barrens Act provides protection for land within the Pine Barrens area.

Comment [JG8]: This is meaningless without describing a realistic method of achieving the goal. It should either be supported or removed as meaningless.

F. The Town of Brookhaven has requested that the New York State Legislature amend the Central 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). It is noted that the state legislation necessary to affect this change - A.7905 and S. 5727 - have passed both houses in the 2013 state legislative session and await action by the Governor. The Town of Brookhaven requests that the Pine Barrens Commission 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.

G. The Town of Brookhaven has taken steps to increase the redemption of Pine Barrens Credits (PBC) through land use legislation including amendment to the MF Residence Zoning District, which mandates the redemption of PBC for increased density in connection with a change of zone application. 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.

2. Proposed Open Space and Farmland Development Rights Acquisitions

The Town of Brookhaven recognizes the importance acquiring and preserving properties within the Study Area for open space and this Management Plan identifies specific sites for open space preservation (Please see Figure 28). Past preservation efforts has resulted in significant open space acquisitions within this Study Area, particularly those parts of the Study Area that are within the Central Pine Barrens. There are still significant privately-owned properties throughout the Study Area, however, which have not been acquired yet merit protection.

The Town has purchased, alone and in conjunction with Suffolk County and New York State, many properties in the Study Area. In addition, Suffolk County, New York State, and 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.

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 change of zone applications that apply for a more restrictive land use, which may be approved by the Town Board.

RECOMMENDATION:

A. Prioritized lands for acquisition utilizing the previously developed Land Acquisition Prioritization Framework (Appendix D). Aggressively move to protect

Comment [JG9]: This section is barely a wish list, let alone a plan of action for acquisition. The background information should be in Chapter 4 and should be substantially strengthened by including specific data to back up the vague assertions that are presently in this introduction.

I-18
AP

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5

I-19
AP

Comment [JG10]: Is "previously developed" accurate?
Detailed comments on the Framework, Appendix D, are in Attachment B.

the lands identified through this process by acquisition by the Town individually, and in partnership with its private and public partners]

B. [Other sources of funding to acquire open space should be explored, such as bonds]

I-20
AP

Comment [JG11]: "Aggressively move" with what? Additional funding sources must be identified for there to be any credibility to the plan to acquire significant amounts of property. The \$2 million allocated should be described in Chapter 4.

Comment [JG12]: And how will the Town Board do this? Hoping doesn't count.

3. Proposed Zoning Actions in the Study Area

It is well established and documented that zoning can play a critical role in limiting the density of development, thereby reducing nitrogen loading to 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 Camans 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. This Management Plan provides specific zoning recommendations that are illustrated in Figure 29. Adoption of the large lot rezoning will help to achieve the 2.5mg/l nitrate goal recommended for new development.

[Parcels subject to previous legal settlements and stipulations deriving from litigation] shall not be subject to the provisions and recommendations contained herein.

RECOMMENDATION:

A. Undertake a comprehensive zoning initiative for the Camans River Study Area as shown in Figure 29.

B. Re-zone all residentially zoned parcels within the 0 to 5 year Management Plan Area to a minimum 2-acre residential zoning (A Residential 2) in order to achieve the 2.5mg/l nitrate goal recommended for new development, (Figure 29). Approximately 2,084 acres (2142 parcels of land) proposed to be rezoned to A

I-21
LZ

Comment [JG13]: This is not clear. Does "previous" mean settlements and stipulations so-ordered prior to the date of this draft, the date of acceptance or what? Regardless, the fact there has been a settlement does not mean that the Town has given up its obligation to protect its citizens' "health, safety and welfare" by zoning properties appropriately. All properties covered by this proposed exclusion should be identified, and the settlement agreements and stipulations should be released so the public can assess whether there is any reason for this proposed exclusion. Otherwise, it should be removed.

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Residential 2.

C. Re-zone 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 be applied (Figure 29). Approximately 1,471 acres (137 parcels of land) proposed to be rezoned to A-5. Approximately 605 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 relating to their consistency with the goals and recommendations of this Management Plan.

Comment [JG14]: Identify all properties that have been excluded from the above descriptions and explain for each why it has been excluded. If the reasons for excluding a property are not compelling, it should be included.

Comment [JG15]: See Attachment A for new language to replace and strengthen this section.

4. New York State Wild and Scenic Recreational River (WSR) Act.

The New York State Wild and Scenic Recreational River Act (WSR) provides the 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. This *Carmans River Conservation and Management Plan* should be considered by New York State as the management plan for the Carmans River in accordance with the provisions of The New York State Wild and Scenic Recreational River (WSR) Act regulations (6 NYCRR Part 666).

B. Continue to take concrete, assertive steps to ensure compliance with existing

I-23
WSR

Comment [JG16]: Like what? This is puffery that accomplishes nothing. It should be significantly amplified so it has real meaning.

DRAFT* The Carmans River Conservation and Management Plan,
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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.

I-23
WSR

Comment [JG17]: So is more needed or not? Identify what is needed.

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.

5. Establishment of a Watershed Protection Improvement District.

In April, 2011, New York State amended New York State Town Law to provide for the establishment of Watershed Protection Improvement Districts as an addition to the list of improvement districts a township may enact. The Act states that: "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. SUCH DISTRICT SHALL ALSO BE EMPOWERED TO PROVIDE REBATES TO PROPERTY OWNERS IN THE DISTRICT TO PROMOTE WATERSHED PROTECTION, INCLUDING BUT NOT LIMITED TO SEPTIC SYSTEM UPGRADES, ALTERNATIVE SEPTIC SYSTEMS, CONSERVATION LANDSCAPING, STORMWATER COLLECTION,

RESTORATION OF NATURAL SHORELINES AND SHORELINE BUFFERS,
AND REMOVAL OF IMPERMEABLE SURFACES.

As a result this Management Plan recommends the following:

RECOMMENDATION:

A. Investigate the merits of establishing a Watershed Protection Improvement District, encompassing the boundaries of the Carmans River Management Plan or Study Area. Establishment of a Watershed Protection Improvement District can provide the Town with a long-term and comprehensive funding mechanism to permit the advancement of numerous water quality and habitat improvement projects within the Study Area and the river. Funding for on-site sanitary system upgrades should be the highest priority strategy in the use of District funds.

Comment [JG18]: See next comment.

I-24
WQ

Comment [JG19]: Is the plan to investigate or to establish the district? Seems like a district can do good; what is the downside, if any? Kicking the can down the road is not a good way to plan.

6. Protection of natural resources

The Study 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 the Carmans River Management Plan and Study 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

and Study 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 50 feet of the landward edge of wetlands and surface waters in the Management Plan Area.

I-25
LZ

Comment [JG20]: Too close. Should be at least 100'. See § 85-287.4.A, § 85-287.4.B, 85-496.D(6), 81-14.C(1), 81-14.D, 81-14.E

B. Construct infrastructure to reduce mortality of wildlife from road kill in the Management Plan Area (subject to further approvals and funding)

I-26
NR

Comment [JG21]: Tunnels under roads at every animal crossing? Do not cross signs for animals? What is needed?

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

I-27
NR

Comment [JG22]: This means we won't do it for some time. When is this to be done?

Comment [JG23]: Explain how.

D. Prohibit the use of pesticides on any publically 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.

7. 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. Publish information that describes common actions likely to adversely impact groundwater and surface water from the discharge of pollutants through stormwater systems. (Alternatives) to the above-mentioned actions resulting in lesser potential adverse environmental impact should be promoted and encouraged.

I-28
SW

Comment [JG24]: Explain what they are.

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).

I-29
SW

Comment [JG25]: Does "illicit" mean ill-advised or illegal? If it means illegal, the plans should be to enforce the law. If it means ill-advised, regulations against it should be put in place and enforced.

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.

Comment [JG26]: Explain what these are or where to find them.

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.

8. Sanitary Systems, Sewage Treatment Plants and Nitrate-nitrogen standards for projects

Although it is recognized that standards for 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 concentrations for residential, institutional, 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

I-30
SS

Comment [JG27]: The Town should require the use of better sanitary systems within the Watershed and particularly closer to the Carmans River. Letting the County be the sole regulator of sanitary systems has brought us to the current crisis.

reduce the effluent nitrogen concentration produced compared to conventional sanitary systems.

2. The wastewater treatment technology and infrastructure at existing sewage treatment plants (STPs) should be updated and new STPs should be designed to provide for enhanced nitrogen removal.

B. The establishment of Wastewater Disposal Districts is permitted pursuant to Article 190-e of the NYS Town Law. The purpose of these districts is: the administration and planning (including educational programs), design, installation, construction, rehabilitation, replacement, operation and maintenance (including pumping and inspections), monitoring, residual treatment and disposal and regulation of private on-site wastewater disposal systems of such district. Said districts can provide a means by which to comprehensively and effectively manage sanitary waste emanating from on-site sanitary systems that are having an impact on the water quality of the Carmans River. The Town (should consider) establishing a Wastewater Disposal District, as provided for in state law, with the District encompassing the Study Area of the Carmans River.

Comment [JG28]: What more needs consideration? If there are downsides, they should be explained and evaluated and creation of districts should be planned (or not).

C. Rebate programs to assist homeowners in financing on-site sanitary system upgrades has been successfully implemented in a number of local communities throughout the country. The Town of Southampton, for example, has just completed such a successful program involving system upgrades. The Town and /or Suffolk County should (strongly consider) establishing a program to provide funding to homeowners to incentivize the upgrading of antiquated and obsolete on-site sanitary systems.

I-31
SS

Comment [JG29]: See the immediately previous comment.

D. The Town should investigate the technical and financial feasibility of utilizing reclaimed wastewater from STP's located within the Carmans River Study Area for golf course and landscape irrigation purposes, thereby reducing the loading of

nitrogen to groundwater originating from STP's. There are many examples throughout the country that promote the reuse of treated wastewater emanating from sewage treatment plants (STP). Golf course and landscape irrigation are especially common targets for reclaimed wastewater. Article 15, Title 6 of the NYS Environmental Conservation Law provides the regulatory framework for water reuse. Major benefits of water reuse include a reduction of nutrients into water bodies due to the diversion of the reclaimed wastewater for irrigation, resulting in plant growth/uptake and lessening of stress on virgin water sources.

E. The Town, which has enacted a waterfowl feeding ban, ~~should~~ ensure that adequate signage is installed at town facilities to fully inform residents of the provisions of the feeding ban. The County of Suffolk should consider amending Section 643-4 of the Suffolk County Code to prohibit the feeding of waterfowl in county parks.

Comment [JG30]: Let's plan to do this.

9. 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 over the short-term (non-degradation goal), and an improvement in current water quality levels in the long term (restoration goal). The following recommendations are intended to achieve this goal. Using the current water quality in the Carmans River as the baseline, the water quality goal for the Carman River should be (non-degradation

I-32
WQ

Comment [JG31]: The goal should be a clean river. We understand that a new goal is to be in the next draft.

RECOMMENDATION:

I-33
WQ

Comment [JG32]: See comment 5(a) in EMPOA's 7/30/13 letter. In particular, we refer to the recommendations of the Peconic Baykeeper Kevin McAllister and Trout Unlimited, represented by Doug Swesty, made to the Town at hearings, in written comments, and in private meetings.

A. Adopt a goal of 1.27 mg/l total nitrogen and a 1.0 mg/l goal of nitrate nitrogen as its numerical standard. Further, establish a restoration goal of .5 mg/l for total nitrogen and a .35 mg/l goal for nitrate-nitrogen. These goals should be amended as new information is made available regarding the impact of nitrogen on ecological systems, communities, and species.

B. If the water quality in any Carmans River segment exceeds the mean concentration 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.

C. 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 shall adopt this numeric water quality standard.

D. 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) 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.

10. 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.

H. 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

I. 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.

11. Biological inventories and monitoring

A key barometer or measure of the ecological health of the Carmans River is through an assessment of the composition and structure of numerous ecological communities that collectively make up the river's ecosystem.

RECOMMENDATION:

A. While recognizing previous inventory efforts, 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/ecological inventory and monitoring program for the Carmans River. This monitoring program should be updated periodically.

B. Following existing ecological protocols, inventories of the aquatic, riparian and terrestrial biological resources of the Carmans River and the entire Management Plan Area should be periodically updated.

12. 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. 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.

C. Develop and implement a detection and monitoring program for invasive species for the entire river corridor.

13. 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 {measures} 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.

I-34
NR

Comment [K33]: Identify the measures to be implemented.

C. To promote appropriate passive use consider the creation of a river crossing

in the Carmans River Headwaters Suffolk County Nature Preserve and at other suitable locations.

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.

I-35
NR

Comment [JG34]: Enforcement is needed in the Watershed (and throughout Town as well).

14. Surface and groundwater remediation

The following recommendations present the programs and practices affecting the Study Area, 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.

I-36
WQ

Comment [JG35]: One would hope that the Town has already been doing what is proposed in A and B. If that is true, then these recommendations add nothing and there is no point in including them. The proposed plan should add to current protective actions. Or these recommendations need to be rewritten to say what was actually intended.

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.

15. Mitigate barriers to fish migration

The Town, County of Suffolk, New York State DEC, and United States Geological Survey should work together to consider the evaluation of the

following barriers to fish migration, and where and when feasible, mitigate subject to all permit requirements, deed restrictions, and funding:

RECOMMENDATION:

Comment [JG36]: Not being familiar with the dams and other installations, we make no comments on this section.

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.

16. Public education and outreach

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

RECOMMENDATION:

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

B. Develop and implement a public educational program targeting residents who live in the River's Study Area about threats to groundwater and surface water quality and what actions they can take to enhance and protect the Carmans River and its groundwater contributing area. Priority elements should be

reduction in fertilizer use, the values in using native plants, information on the Suffolk County ban on fertilizer use in the winter season, on-site wastewater system maintenance, the town ban on waterfowl feeding, and other personal activities and strategies that might impact water quality and the environment

C. The Town of Brookhaven, Suffolk County, and New York State should install signs on key roadways to inform drivers they are 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.

17. 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 currently available to adequately assess groundwater quality beneath and adjacent to a farm,

additional groundwater wells should be installed. These groundwater wells should be monitored for parameters and at a 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.

18. Management Plan Implementation and Establishment of the Carmans River Management Plan Performance Committee

Management Plan Performance Committee will play a vital role in ensuring that the recommendations contained herein are implemented, and evaluating their effectiveness.

Their overall responsibilities are summarized below.

Comment [JG37]: A new section should be inserted. In which an aggressive but realistic schedule is put in place (when the Plan is adopted) for achieving each of the planned actions.

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RECOMMENDATION:

A. Evaluate The Carmans River Conservation and Management Plan annually to determine its effectiveness in meeting its goals.

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Comment [JG38]: This section needs to be rewritten so it flows correctly. First establish the committee. Second list its tasks. Third, provide for its report to include recommendations for improving achievement of the plan's goals.

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

C. Establish a Carmans River Management Plan Performance Committee which meets on at least a quarterly basis to work with the Town in implementing plan elements and assessing their success. The Committee should produce an annual progress report on the effectiveness of the implementation of *Carmans River Conservation and Management Plan*. The Committee should include planning and environmental professionals from relevant local, state, and federal agencies, and representatives from civic and local, regional, and national environmental organizations, that have had a demonstrable interest and involvement in the protection of the river .

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Comment [JG39]: The report should also describe how the schedule (proposed at the beginning of this section) is being met.

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.

19. Carmans River Management Plan Area.

The Carmans River Management Plan Area encompass 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.

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Comment [JG40]: Move this idea into the prior section.

A New "Recommendation" 3.D

D. Upon adoption of this Management Plan, the Town Board shall approve a resolution and/or local law whose principal provisions are in substance as follows:

- 1) Rezoning of property within the Watershed as set out in this Management Plan is, as already explained (*add cross-references*), to "preserve and protect . . . the health, safety and welfare of the community" as that phrase is used in Section 267-b(2) of the Town Law. In considering requests for use variances, the Board of Zoning Appeals is required "to preserve and protect . . . the health, safety and welfare of the community". Therefore it should carefully evaluate all requests for use variances and, if approved, impose conditions, in light of the goals and recommendations of this Management Plan.
- 2) In considering requests for area variances, the Board of Zoning Appeals is required to weigh granting the variances "against the detriment to the health, safety and welfare of the neighborhood or community" (Town Law § 267-b(3)). As explained above (*add cross-references*) and in Appendix D, the size of properties, and logically the structures on them, has a direct impact on pollutants that go into ground water from them. Therefore, the Board of Zoning Appeals should carefully evaluate all requests for area variances and, if approved, impose conditions in light of the goals and recommendations of this Management Plan and it shall take into account that area variances will have an adverse impact on groundwater and water quality in the Carmans River and Great South Bay.
- 3) The following subsection shall be added to Section 85-29.1.A(1) of the Town Code, which describes the Board of Zoning Appeals powers and duties regarding special permit applications:

"(e) That the use will not result in nitrogen or other pollutants entering the groundwater, the Carmans River or its tributaries or Great South Bay and the use is consistent with the goals and recommendations of the Carmans River Conservation and Management Plan."
- 4) Copies of all applications (and papers filed with them) regarding property in the Carmans River Watershed shall be given to the Carmans River Management Plan Performance Committee promptly upon receipt by the Board of Zoning Appeals.
- 5) All reports prepared by Town staff for the Board of Zoning Appeals for properties within the Carmans River Watershed shall include identification of the Travel Time zone in which the property is located and an analysis of the impacts of approving the application in light of the goals and recommendations of the Management Plan.
- 6) Whenever the Board of Zoning Appeals makes a decision approving a special permit or variance for property in the Carmans River Watershed, it shall make and

file findings reflecting the determinations it made in light of the goals and recommendations of the Management Plan.

- 7) Nothing herein is intended to, nor shall it be deemed to, modify subsection 267-b(2) or 267-b(3) of the Town Law.
-

Comments on
The Acquisition Prioritization Framework
Appendix D to the Carmans River Conservation and Management Plan

I-11
AP

August 20, 2013

A method of prioritizing potential acquisitions for open space within the Carmans River Watershed should be helpful to decision makers, even though it is not intended to be binding. However, some adjustments of the proposed framework and qualifications of its use are appropriate.

1. The Acquisition Prioritization Framework will only help in prioritizing competing potential acquisitions in the Watershed. When prioritizing acquisitions within and without the Watershed, it will be inappropriate because it includes factors not being taken into account for other acquisitions.
2. **Size.** As the text within the Framework indicates, the factor that will affect water quality in the Carmans River most is size. In fact, the benefit of size to the river will be in direct proportion to size. The point allocations for size, however, are not in proportion. But are skewed to favor smaller properties. The smallest parcel would receive 0.8 points per acre, and the largest would receive 0.07 points per acre. This can be corrected by awarding points per acre, rather than using the proposed table.
3. **Travel Time.** The travel time of pollutants to the river is another major factor. From one point of view, it should not be, for pollution in the ground headed for the river will eventually get there. While not much 100 year old pollution may be reaching the river now, that is only because of lower intensity of land use, and lower density, 100 years ago. A century from now, the river will be hit with our pollution.

On the other hand, reduction of the river's pollution load in the near term should have longer term benefits to somewhat offset the continuing pollution from areas farther from the river. And residents would like to live to see some gains in river water quality as a result of their tax dollars being spent for open space acquisitions.

The current draft gives 10 points to properties within the 0 to 2 year travel time zone and, at the other end; it gives 2 points to properties in the 25 to 100 zone. In between there is an equal 2 point step for each travel time zone even though the zones cover 3, 5, 10, and 75 year spans. There is a 2 point difference between up to 2 year zone and 2 to 5 year zone. Given the history of the river and its future, there should be no difference between such short time spans.

The right balance in determining points for this factor is not obvious. Several possibilities are shown on the Analysis Attachment. The one that seems best of them is the Balanced Approach. It is intended to strike a balance between early and long term benefits. We urge its adoption.

On the other hand, by consulting with other experts, the Town may come up with an even better approach, and we urge that such consultation take place.

4. **Other Proposed Factors.** Both the Intrinsic Resource elements and the Adequacy and Linkage elements are very important when assessing the significance of property for open space acquisition, but not at all as important for protecting water quality. Their role in prioritizing among potential acquisitions for protecting the Carmans River should be diminished. Their significance in this process is difficult to assess numerically, but since the prioritization method is essentially numeric, we submit that those factors together should not account for more than 1/3 of the total possible points.
-

5. **Add the Current Status Factor.** The proposed Framework has an unspoken premise. It explains the factors to consider in acquiring open space to river water from the impacts of development. Much of the property in the Watershed that Town representatives are saying should be acquired is already designated for inclusion in the expanded Pine Barrens Core. The law putting it into the Core has already been signed, and will become effective on January 1, 2014. This property will not need protection because the Pine Barrens Act says that without an approved hardship exemption it cannot be developed.

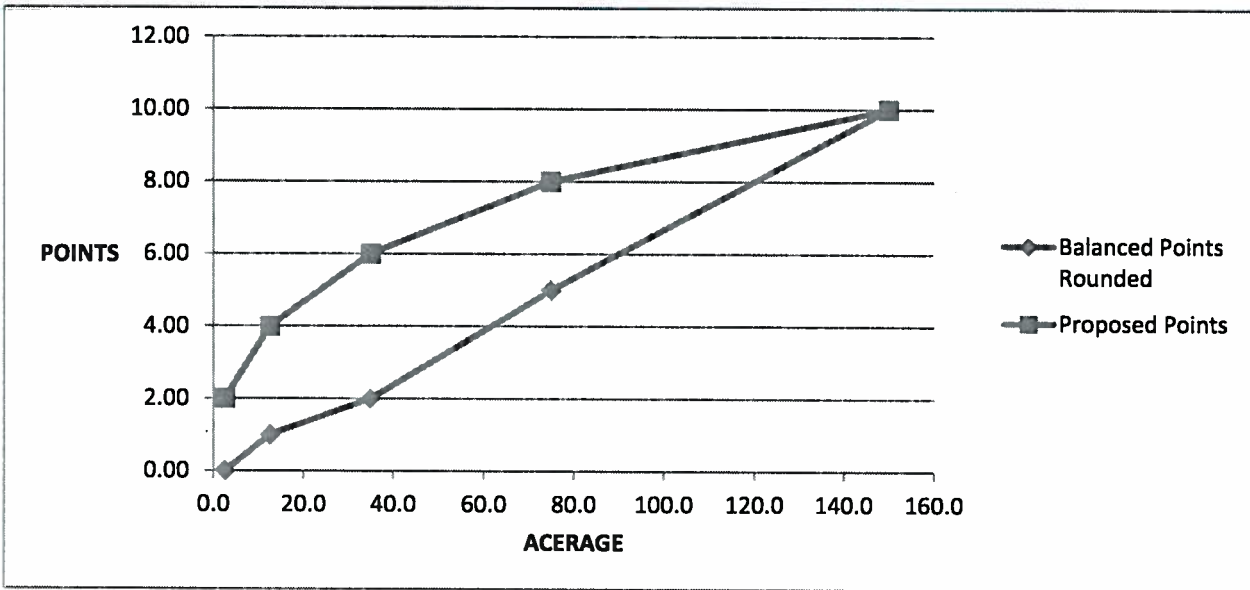
Outside the Core—in the expanded CGA, the rest of the Watershed and the rest of the Town—there is property that is in need of protection. It would be worse than insanity to spend our governments' limited open space funds to acquire property that is already protected.

Accordingly, we submit that an overriding factor in prioritizing acquisitions should be the current status of the property. If the property is already within the Core, or will be on the coming January 1, and there is other property in the Watershed that should be acquired, the already-protected property will go to the bottom of the Carmans River prioritization list.

Likewise, when prioritizing properties Town wide for possible open space acquisition, those already in the Core should not have priority over those that are not.

SIZE FACTOR

Acreage Range	Median Acreage	Proposed		Balanced Factor =	
		Points	Pts/acre	0.07	Rounded
0-5	2.5	2	0.80	0.17	0.00
5-20	12.5	4	0.32	0.83	1.00
20-50	35.0	6	0.17	2.33	2.00
50-100	75.0	8	0.11	5.00	5.00
100-200	150.0	10	0.07	10.00	10.00

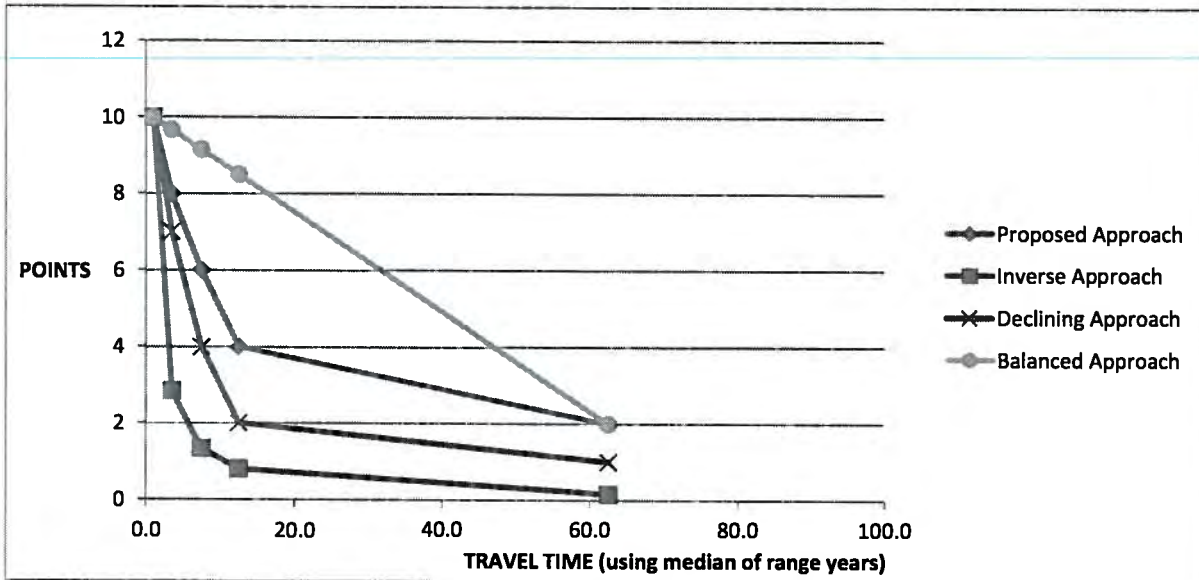


NOTES:

The Balanced Approach multiplies the number of acres by a factor to get points. As shown above, 0.07 was used as the factor because it gave 10 points to the largest acreage range. Any other factor deemed appropriate could be used. The relationship of size to the other factors should determine the appropriate factor.

TRAVEL TIME FACTOR

Travel time range	Median Year	As Proposed		Inverse Approach		Declining Approach Points	Balanced Approach	
		Points	Pts /mile	Points	Rounded		Points	Rounded
0-2	1.0	10	10.00	10.00	10	10	10.00	10.00
2-5	3.5	8	2.29	2.86	3	7	9.67	10.00
5-10	7.5	6	0.80	1.33	1	4	9.15	9.00
10-15	12.5	4	0.32	0.80	1	2	8.50	9.00
25-100	62.5	2	0.03	0.16	0	1	2.00	2.00



NOTES

- The Inverse Approach starts with 10 points for 1 year, and then divides 10 points by the median travel time to get the points allocated to that travel time range. This approach most strongly favors nearby properties, as the graph above demonstrates.
- The Declining Approach is an arbitrary allocation of points. It is included to show a middle approach.
- The Balanced Approach uses the proposed points per year for the 0-2 and the 25-100 year travel time ranges as fixed, determines the straight line relationship between them and allocates points for the other ranges accordingly. The equation found for the relationship was $\text{Points} = 10.130081300813 - 0.130081300813008 * \text{years}$. It can be adjusted to favor nearby or distant property more or less.

APPENDIX J: Correspondence from Friends of Wertheim

The Carmans River Conservation and Management Plan is an encouraging step in preserving the quality of this unique and important watershed. It addresses many important aspects of how to protect and improve the quality of the water including reducing nitrogen loading and limiting development within the watershed. One of the areas this plan needs more attention is how to address the landfill leachate plume heading for Yaphank Creek and Little Neck Run. This seems to be "the elephant in the room" and is not well reported in the plan. Although we know how it is being monitored, it needs to be spelled out as to what the concerns are and what mitigation could be taken if it is deemed to be a pressing hazard. These two tributaries lead directly into the Carmans River and are important nurseries for many of the resource species that are harvested by sportsman at Squassux Landing and Bellport Bay. Additionally, in the plans effort to mitigate or reduce pesticide use it should consult with Suffolk County Vector Control to employ the current best methods available. Suffolk County Vector Control along with US Fish & Wildlife and Ducks Unlimited are in the vanguard in reducing pesticide use on the tidal salt marshes along the Carmans and are nationally recognized for their work. One final point that we would like to see, is a stronger stance on is invasive species. The plan mentions aquatic invasive species but does not go further to outline other invasive plants or animals. Laws should be passed that prohibit feral cat colonies within the watershed, allow the town/county/state to enter private lands to eradicate invasive plants, and write into law the ability to control or remove mute swans (and try to establish trumpeter swans). These measures should also keep an eye toward the future as more invasive species become established and will have to be dealt with.

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Submitted by Friends of Wertheim NWR
Claire Goad - President

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TOWN CLERK
TOWN OF BROOKHAVEN

APPENDIX K: Joint Correspondence from Multiple Authors

TO: Town Board of the Town of Brookhaven
Patricia Eddington, Town Clerk

FROM: Kevin McAllister (Peconic Baykeeper),
Doug Swesty (Sea Run Brook Trout Coalition),
Bill Toedter (North Fork Environmental Council),
Open Space Council (OSC)
Affiliated Brookhaven Civic Organization, Inc. (ABCO)
Daniel J. Gulizio (The Community Planning Center)

DATE: August 21, 2013

RE: **Carmans River Conservation and Management Plan - July 2013**

The protection and restoration of the Carmans River and its accompanying watershed is universally supported by environmental advocates, planners, civics and residents. The establishment of a community-based and scientifically-supported plan which properly balances environmental, economic and social equity considerations can serve as a template for the management of watersheds throughout the Town and region. It can also serve as a guide for future land use policies so that regulators, residents and the development community can better understand the critical nexus between land use, environmental quality and sound, sustainable economic development policies.

The Town should be applauded for attempting to address the protection of this critical regional resource and for recognizing the importance of preserving the Carmans River and the watershed that surrounds it for future generations. We note at the outset, that we fully support the adoption of a plan to protect and restore the integrity of the river and watershed. Comments contained herein are intended to help guide this process and to ensure that the Plan is both environmentally sound and legally defensible.

Please accept the following comments in response to the Carmans River Conservation and Management Plan - July 2013 and it is respectfully requested that the comments be incorporated as a part of the official record. In light of the upcoming hearing scheduled in October, it is also requested that the Town provide responses to the below questions/comments well prior to the hearing date. We also wish to state that we are willing and able to meet with members of the Town Board or Town Staff to discuss any of the below comments and we respectfully request a meeting well in advance of the October hearing to review the Town's responses.

- Goals. The Carmans River Conservation and Management Plan - July 2013 (The Plan) contains a series of goals located in the statement from Commissioner Tullio Bertoli, the Executive Summary and in Chapter 1. The individual lists of goals are all somewhat different and this is particularly true of the goals contained within the statement from Commissioner Bertoli in comparison to the goals listed in both the Executive Summary and Chapter 1. There is also a minor but potentially important difference in one of the

K-1
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goals listed in the Executive Summary and Chapter 1. This inconsistency should be addressed in the final version of the Plan.

- Study Boundaries. It is unclear how the precise boundaries of the study area and management zones were derived. Please delineate the methodology used to determine which parcels were placed within the Study Area, the Core and Compatible Growth Areas of the Pine Barrens and which parcels were identified for rezoning. Please provide a justification for any parcels excluded from the study boundaries, including those subject to any litigation settlement discussions. It is noted that the arbitrary exclusion of individual properties from the Study boundaries or from regulatory oversight would be inconsistent with the original intent of creating a scientifically-supported plan to protect and restore the watershed and the environmental quality of the River.

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- Funding. There is no mention of funding for any of the recommendations contained within the Plan. The Plan indicates that it is the intent of the Town to acquire through acquisition seventy-five percent (75%) of the new development rights or credits created through the expansion of the Core Preservation area of the Pine Barrens. What is the estimated cost of the acquisition of seventy-five percent (75%) of the new credits and how much funding will the Town commit to achieve this goal?

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- Credit Analysis. The Pine Barrens legislation was created in order to allow for the transfer of development credits from the Core Preservation area of the Pine Barrens to designated receiving sites. To pass constitutional muster, the Towns were obligated to maintain a 1-1 ratio of sending rights to as-of-right receiving sites. The State has recently passed legislation which increases the number of available credits and litigation has recently been commenced against the Town challenging, among other things, the availability of as-of-right receiving sites. How many credits are currently available and how many will be created with the proposed expansion of the Core Preservation area? Are there sufficient receiving sites to maintain the required 1-1 ratio required by the original Pine Barrens Plan?

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K-6
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The credit multiplier contained within the recently adopted MF code provides a developer with five (5) additional units for every single Pine Barrens credit purchased. How will this multiplier impact the absorption of Pine Barrens credits and will it attract credits from Riverhead and Southampton based upon the increased value of a single credit when used in conjunction with the development of multifamily housing?

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K-8
PB

- Groundwater Time Travel Zones. The Plan proposes to regulate development within the 0-2 and 2-5 groundwater time travel zones adjacent to the Carmans River. According to data within the Plan, this regulatory zone accounts for approximately 35% of the river's base flow and 6,914 acres of the 19,422 total acres within the 100-year travel zone. How will this limited percentage of the river's base flow be sufficient to meet the proposed water quality goals contained within the Plan?

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- The Plan Process and Study Group Participation. The planning process and work of the Study Group were tied to the development of the original drafts of the Plan entitled the

Carmans River Watershed Protection and Management Plan. The current draft entitled the "Carmans River Conservation and Management Plan" was not prepared pursuant to the former process nor did it contain the same Study Group participants. The Plan process and Study Group participants should be updated.

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- The State Environmental Quality Review Act (SEQRA). The Plan raises a number of concerns with respect to both the procedural and substantive aspects of SEQRA.
 - The original drafts of the Plan entitled the Carmans River Watershed Protection and Management Plan consisted of three basic components including (1) A Management Plan, (2) A new multifamily code and (3) An expansion of the Pine Barrens.

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The new multifamily code (MF) was recently adopted by the Town Board. It specifically references the use of Pine Barrens Credits and the stated purpose of providing for "the redemption of Pine Barrens Credits...to be in compliance with Article 57 of the New York State Environmental Conservation Law, the 'Long Island Pine Barrens Protection Act'." In addition, it is noted that the Governor recently signed legislation to expand the Pine Barrens consistent with the draft plan.

According to the SEQR Handbook, segmentation is defined as "the division of the environmental review of an action so that various activities or stages are addressed as though they were independent, unrelated activities needing individual determinations of significance." Additionally, it notes, "Except in special circumstances, considering only a part, or segment, of an overall action is contrary to the intent of SEQR." In the instant case, it seems clear that the "action" associated with the adoption of the original 3-part plan has been divided into three (3) separate actions "so that various activities or stages are addressed as though they were independent, unrelated activities needing individual determinations of significance."

In order to determine if segmentation is occurring, the Handbook suggests consideration of the following factors:

- Purpose: Is there a common purpose or goal for each segment?
- Time: Is there a common reason for each segment being completed at or about the same time?
- Location: Is there a common geographic location involved?
- Impacts: Do any of the activities being considered for segmentation share a common impact that may, if the activities are reviewed as one project, result in a potentially significant adverse impact, even if the impacts of single activities are not necessarily significant by themselves.
- Ownership: Are the different segments under the same or common ownership or control?
- Common Plan: Is a given segment a component of an identifiable overall plan? Will the initial phase direct the development of subsequent phases or will it preclude or limit the consideration of alternatives in subsequent phases?
- Utility: Can any of the interrelated phases of various projects be considered functionally dependent on each other?

- Inducement: Does the approval of one phase or segment commit the agency to approve other phases?

It seems clear that the adoption of the Plan, the establishment of a new MF code and the expansion of the Pine Barrens all share a common purpose. The viability of the Pine Barrens protection program is a stated purpose of all three actions, which were all incorporated within the original drafts of the Plan.

In addition, the cumulative impacts associated with an expanded Pine Barrens program, the creation of new credits within the watershed of the Carmans River and the increase in the volume of credits facilitated by the multiplier contained within the MF code represents a potentially significant impact. As stated, all three actions are also clearly part of a "common plan." The division of the original Carmans River Plan into three actions does not negate the interrelated nature of the individual actions.

Finally, it is clear that all three actions (the Management Plan, Pine Barrens expansion and new MF code) are also clearly interrelated phases which are "functionally dependent" upon each other. The preservation of the properties within the watershed adjacent to the River is dependent upon the transfer of development rights permitted through the expansion of the Pine Barrens program and the absorption of those development rights or credits is dependent upon the creation of receiving sites through the adoption of the new MF code.

Please provide a detailed explanation as to how the division of the Multifamily (MF) Code, the New York State legislation expanding the Pine Barrens and the Carmans River Conservation and Management Plan into three (3) separate actions does not constitute segmentation.

K-12
SEQ

- Recommendations. The Plan contains a series of recommendations designed to achieve the stated goals of the study. In general, many of the recommendations merely obligate the Town to "consider," "investigate" or "cooperate" with other agencies to achieve the goals of the study. The recommendations also fail to include specific timelines for the implementation of the recommendations. While the establishment of a study group to analyze progress is a positive step, without clearly defined goals and specific timelines for the implementation of the study's recommendations, it will be impossible for the group to properly evaluate progress. The following is a partial summary of the recommendations which fail to obligate the Town to specific actions potentially rendering the recommendations ineffectual:

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- The Town of Brookhaven Board of Zoning Appeals, *to the extent permitted by Town Law Section 267-b*, should evaluate all requests for variances relating to their consistency with the goals and recommendations of this Management Plan.
- *Continue to take concrete, assertive steps* to ensure compliance with existing WSR regulations already in place, including zoning and land use restrictions.

- **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.
- **Investigate** the merits of establishing a Watershed Protection Improvement District, encompassing the boundaries of the Carmans River Management Plan or Study Area. Establishment of a Watershed Protection Improvement District can provide the Town with a long-term and comprehensive funding mechanism to permit the advancement of numerous water quality and habitat improvement projects within the Study Area and the river. Funding for on-site sanitary system upgrades should be the highest priority strategy in the use of District funds.
- **Seek** the routing of trails and other enhancements on public lands (The Town, Suffolk County and New York State) in the Management Plan Area to avoid situations that cause erosion, runoff and siltation.
- 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 concentrations for residential, institutional, and commercial development.
- 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.
- The wastewater treatment technology and infrastructure at existing sewage treatment plants (STPs) **should be updated** and new STPs **should be designed** to provide for enhanced nitrogen removal.
- Upgrades to existing on-site sanitary systems and new on-site sanitary systems **should** provide increased denitrification of wastewater...
- (The Town should) **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.
- The Town **should consider** establishing a Wastewater Disposal District, as provided for in state law, with the District encompassing the Study Area of the Carmans River.
- The Town and /or Suffolk County **should strongly consider** establishing a program to provide funding to homeowners to incentivize the upgrading of antiquated and obsolete on-site sanitary systems.

- The Town *should investigate* the technical and financial feasibility of utilizing reclaimed wastewater from STP's located within the Carmans River Study Area for golf course and landscape irrigation purposes, thereby reducing the loading of nitrogen to groundwater originating from STP's.
- The Town, which has enacted a waterfowl feeding ban, *should ensure* that adequate signage is installed at town facilities to fully inform residents of the provisions of the feeding ban. The County of Suffolk *should consider* amending Section 643-4 of the Suffolk County Code to prohibit the feeding of waterfowl in county parks.
- *Cooperate* with other agencies and academic institutions to develop a comprehensive water quality monitoring program.
- While recognizing previous inventory efforts, 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/ecological inventory and monitoring program for the Carmans River. This monitoring program should be updated periodically.
- *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.
- To promote appropriate passive use *consider the creation* of a river crossing in the Carmans River Headwaters Suffolk County Nature Preserve and at other suitable locations.
- *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.
- *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.
- RB Industrial Park Exclusion. The Plan recommends excluding the RB Industrial Park from the expanded Compatible Growth Area (CGA) regulatory boundary as it "was designed to comply with the current Pine Barrens Standards..." If the industrial park is already in compliance with the CGA standards it would seem logical that it be included, not excluded, from the proposed expansion of the CGA.

- Rezoning Publically-Owned Properties. Publically-owned properties are not subject to local zoning and the rezoning of these properties will add little to the protection of the River or its watershed. A better approach would involve all levels of government agreeing to limit the use of their respective properties consistent with the Plan's water protection and restoration goals. In light of government's recent penchant for selling off land as one-shot revenue deals, these publically-owned properties should also be encumbered with a declaration of covenants and restrictions in order to ensure that potential future owners would be similarly restricted in their use of these critical parcels.

K-15
LZ

- Storm water and code enforcement recommendations are already required and therefore add little in the way of new protection.

K-16
LZ

K-17
G

- 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.
- 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.
- 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.
- The water quality goal of "non-degradation" would appear to nevertheless permit a twenty percent (20%) decline in water quality prior to the commencement of a study. Please clarify the intent of this recommendation and how the water quality goal of non-degradation will be enforced.

K-18
WQ

- The Recommendations state that 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." This would seem to require that the Town adopt a less restrictive water quality standard in the event the State or EPA adopt a standard that is less restrictive than the Town's standard.

K-19
WQ

- There is no mention of funding for any of the Management Plan Recommendations or mitigation measures including funding for acquisitions - a critical component of the Town's strategy. The Plan should contain a commitment to fund the various recommendations designed to achieve the stated water quality goals. In fact, Chapter 5: Management Plan Recommendations, specifically states that the implementation of

K-20
AP

the Plan's recommendations "is subject to the availability of funds and possible approval by the Town Board." Since, if adopted, this Plan will be the Town Board's Plan, it is critical that the commitment to fund its recommendations be included as a component of the Plan.

- The number of recommendations in the Plan does not match the nineteen (19) recommendations referenced in the introductory chapters.

K-21
G

- In order to address the above noted concerns, it is recommended that the Town organize a committee to address outstanding comments related to the plan. This "Study Group" should consist of civic members, water quality experts and planners and they should be charged with the development of a revised draft within a specified time frame of six months. Members of the Study Group should be recommended by the civics and appointed by the Town Board. The process of creating the Study Group should begin immediately in order to facilitate the development of a final plan as quickly as possible.

K-22
G

In conclusion, we would again like to state unequivocally that we support the adoption of a plan that protects the Carmans River and the watershed that surrounds it. We also recognize that no plan is perfect and that all planning processes involve compromise among a host of competing interests. The balance between sustainable economic development, environmental management and social equity is a delicate one which requires constant attention and adjustment as conditions change and new, improved information becomes available.

However, it is also important to note that the actions taken pursuant to the adoption and implementation of the Carmans River Conservation and Management Plan will have a dramatic impact on regional land use patterns, the ecological health of the River and community character for years to come. We look forward to continuing to work cooperatively with the Town to ensure that this plan can become a model for both the Town and region.

APPENDIX L: Correspondence from Open Space Council

OPEN SPACE COUNCIL
ADMINISTRATOR OF THE CARMANS RIVER WATERSHED TRUST FUND
PO Box 275 • BROOKHAVEN, NY 11719

To: Town Board of the Town of Brookhaven
Re: **Carmans River Conservation and Management Plan Draft, July 2013**
Date: August 21, 2013

Open Space Council (OSC) has joined other organizations in an omnibus statement commenting on the instant Plan, submitted yesterday, August 20.

The comments herein add a few points to that statement that are of special concern to OSC.

First, and foremost, **we request that the name of the Plan have “Watershed” inserted after “Carmans River.”** This has always been a plan for the watershed, not simply its manifestation as a river. To omit this word and concept suggests a limited comprehension and ability of the Town to grasp what really needs to be done. Its omission does not serve the Town well, nor the River, nor the watershed in its providing our life-sustaining drinking water and biologically-sustaining systems emanating from the watershed.

L-1
G

Generally, there is still much, much, **much** work to be done to develop a Plan for the Carmans River watershed that will, in fact, preserve and protect it. However the Plan so far proffered is a good place to begin.

To that end, we were glad to hear at one of the Town informational meetings held in Yaphank, guided by Joe Sanzano and John Turner, the assurance that the protocol going forward will remain flexible, with plenty of room and ability to adjust many of the adopted measures, approaches, breadth of the Plan -- changes based on new or re-visited scientific data-gathering which will impact our understanding of mechanisms in the watershed. **Request: We would like to see that assurance of flexibility and ability to improve the Plan reflected in writing in the Plan, perhaps as an attendant function of the anticipated new Study Group charged to evaluate the Plan’s progress.**

L-2
G

We continue, even at this late, nearly-three-year period, to note the extraordinary and continued omission – despite repeated requests from the public, the Study Group, and Dr. Koppelman himself – of any scientific basis for the major premises of the Plan. This includes, but is not restricted to, justification for **any increased density**, either in the amorphously-designated receiving areas or any increase above the legally and originally-designated 1:1 transfer of credit units. Nor is there any scientific, or, worse, even any attempt at basic bean-counting, to determine the status of the watershed in terms of sustainability and carrying capacity – i.e. what’s on the ground. By all measures of abundant data referred

L-3
LZ

L-4
WQ

to in the Plan, this watershed is way beyond its carrying capacity. It is without a margin, for nitrogen as well as its many accompanying parameters. This is particularly disturbing since the Plan's bibliography cites the Kinney-Valiela Woods Hole study (2011), *Nitrogen loading to the Great South Bay*, which corroborates our (OSC and Open Space Preservation Trust, working with the Town staff) observations that as far back as 2008 the watershed was already approaching or surpassing its carrying capacity. The study also tells us in no uncertain terms what we must do now.

L-5
WQ

Further, including a mere 35% of the River's base flow, and a mere portion of the 19,000 acres in what is properly closer to a 40,000-acre watershed is reprehensible as we approach drinking dilute forms of our own sewage already. **We request that provisions be written into the Plan that any future work defining preservation of the watershed open the door for inclusion of a complete, comprehensively-delineated watershed.**

L-6
WQ

Bringing such knowledge and using the data available will be a critical function of **the intended Study Group**, for any successful ongoing provisions for the Plan. To that end, **we are requesting that the make-up of that group be carefully defined to include knowledgeable, competent, science- and community-based representatives capable of independent and systematic thought.**

L-7
G

Regarding denitrification systems and other alternatives to controlling and/or preventing nitrogen and all other potentially toxic elements from reaching aquifer and river end points within the watershed, **we request that the Town include the consideration of closed septic systems, such as compost toilets and urine harvesting systems.**

L-8
SS

We further emphasize here that the Town should, in writing the Plan, state its willingness to supercede the provisions, practices, and standards set forth by any County or State agency which is failing to protect us, and is the Town's legal right, under NYS law, to do. Simply by including such a statement of Town willingness to include a consideration of all alternative treatment systems that work will be important as our community continues to work with the Suffolk County Department of Health Services in expanding their standards.

L-9
SS

Finally, to be taken seriously or to become effective, this Plan currently lacks, and must have, **a timeline, budget considerations, and a source of funding for actions that are intended or planned.**

L-10
G

To that end, Open Space Council is currently administering a Carmans River Watershed Trust Fund of which the Town may be a major funds recipient. We look forward to working with the Town, its staff, and the study committee to implement a Plan protective of the resource and hope that some of the measures we suggest will lay a path for such improvements.

Respectfully submitted,

Marilyn England

Marilyn England, President

Karen Blumer

Karen Blumer, Vice-President
Open Space Council
Member, Central Pine Barrens Advisory Committee

APPENDIX M: Correspondence from Andrea Spika

August 21, 2013

Town of Brookhaven
One Independence Hill
Farmingville, NY 11738

By Email to Patricia Eddington, Town Clerk

Comments on Carmans River Management Plan

Town Supervisor and Town Board Members:

I am a resident of Eastport and have followed, but not previously commented on the Carmans River Management Plan. After attending the Supervisor's July 25 information session and reading the documents available on the Town's website, I support the Management Plan but would like to offer a few suggestions and comments. I sincerely want to thank Supervisor Romaine and his staff for their community outreach and trust that to the extent possible, constructive comments designed to improve the Plan will be incorporated in the final version.

- I suggest that the Town Establish a Watershed Protection Improvement District, encompassing the boundaries of the Carmans River Management Plan or Study Area", instead of "Investigating the merits of establishing a Watershed Protection district..". The momentum currently exists to make real changes and hard choices to improve the quality of our drinking and surface water and the Town needs to seize that opportunity. M-1
G
- Similarly, the Town should Establish a Wastewater Disposal District, as provided for in state law, with the District encompassing the Study Area of the Carmans River, rather than "consider establishing a Wastewater Disposal District...". M-2
G
- I endorse the recommendation that "The Town should require the use of better sanitary systems within the Watershed and particularly closer to the Carmans River" but would like the Town to go one step further. I recommend that the Town create and pass town-wide legislation requiring an approved sewage treatment system (STP) as a minimum standard for any new multi-residential developments, and medium to large scale commercial developments. Too often developers are using STPs as a "public benefit" to gain increased (often doubled) density with the result that there is a net zero gain in water safekeeping. M-3
SS
- All references to ZBA approvals should be strengthened to insure that ZBA actions do not circumvent the intent of the Management Plan. M-4
LZ
- In the Section Protection of Natural Resources, I would like you to increase the buffer area from 50' to 100' in Recommendation A. Prohibiting new construction, clearing and fertilization within 100' of the surface water and wetlands area in the Management Plan area is necessary to really protect the river and the health of Brookhaven's citizens. M-5
NR

- I would also request that the Town to improve the proposed Acquisition Prioritization Framework (Appendix D). I encourage you to utilize the improvements to Appendix D suggested by Jim Gleason as part of the EMPOA Board of Directors' submission on the Carman's River Plan.

M-6
AP

I understand that to make this Plan and extensive Recommendations a reality, identifying funding sources will be essential, especially given the financial situations of both the Town and the County. As a community advocate who works primarily in eastern Brookhaven and Southampton Town, I encourage the Town to be proactive on open space acquisitions; including the possibility of borrowing against future revenues (how I wish the CPF had passed in Brookhaven Town). The quality of our drinking and surface water both now and into the future depend on swift action.

M-7
AP

Thank you for the opportunity to comment and for your efforts on our behalf.

Andrea Spilka

59 Encore Blvd.

Eastport, NY 11941

APPENDIX N: July 30, 2013 Public Hearing Transcript

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T O W N O F B R O O K H A V E N
T O W N B O A R D
RE: CARMANS RIVER PUBLIC HEARING
ONE INDEPENDENCE HILL, FARMINGVILLE - AUDITORIUM
JULY 30, 2013
6:08 P.M.

- BOARD MEMBERS PRESENT:
EDWARD P. ROMAIN - SUPERVISOR
STEVE FIORE-ROSENFELD - Council District 1
JANE BONNER - Town Council District 2
KATHLEEN WALSH - Town Council District 3
CONSTANCE KEPERT - Town Council District 4
TIMOTHY MAZZEI - Town Council District 5
DANIEL PANICO - Town Council District 6

ALSO PRESENT:
PATRICIA RYAN, Chief Deputy Town Clerk
DONNA LENT, Clerk
KERRI BERBERICH
ANNETTE EADERESTO, Town Attorney
STEPHANIE J. VALDER, Stenographer

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ROY ALLEN & ASSOCIATES, INC., 516-542-2020

626 RXR Plaza, Uniondale, New York 11556

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P R O C E E D I N G S

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SUPERVISOR ROMAINE: I'd like to
call this Town Board meeting to order.

5

6

7

And with that, I would ask
Councilwoman Bonner to lead us in the Pledge to the
Flag.

8

(Pledge of Allegiance.)

9

10

11

12

SUPERVISOR ROMAINE: At this time,
would like to ask for a moment of silence for those
serving our country, both here and abroad.
Remember their service and their dedication.

13

(Moment of Silence.)

14

15

SUPERVISOR ROMAINE: Thank you
very much.

16

17

18

And of course our men and women in
the Military that are serving are, of course, in
our thoughts.

19

20

I'd ask the Clerk, at this moment,
to call the roll.

21

22

CLERK LENT: Council Member
Fiore-Rosenfeld.

23

24

25

CON. MEM. FIORE-ROSENFELD: Here.

CLERK LENT: Council Member

Bonner.

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5

2

COUNCIL MEMBER BONNER: Here.

3

CLERK LENT: Council Member Walsh.

4

COUNCIL MEMBER WALSH: Here.

5

CLERK LENT: Council Member

6

Kepert.

7

COUNCIL MEMBER KEPERT: Here.

8

CLERK LENT: Council Member

9

Mazzei.

10

COUNCIL MEMBER MAZZEI: Here.

11

CLERK LENT: Council Member

12

Panico.

13

COUNCIL MEMBER PANICO: Here.

14

CLERK LENT: And Supervisor

15

Romaine.

16

17

SUPERVISOR ROMAINE: Present.

18

CLERK LENT: We have a quorum.

19

SUPERVISOR ROMAINE: Thank you

20

very much.

21

Tonight, we have a special

22

hearing. We have a stenographer here that will

23

take a stenographic record of this meeting, that

24

will be made part of our deliberations as we review

25

and prepare the final plan for adoption later on.

_____**ROY ALLEN & ASSOCIATES, INC., 516-542-2020**_____

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Right now, legally, we will accept written comments through August 9th. But at the August 6th meeting, I will make a motion to extend written comments through the end of August, so that any written comments that come in on Carmans River can be accepted through the end of August.

Tonight is an opportunity to voice, on the record, your thoughts on the Carmans River Plan. And with that, I will turn this over to our Town Clerk.

CLERK LENT: This is a Town Board meeting, public hearing, to consider the adoption of the Carmans River Conservation and Management Plan and SEQRA Draft Generic Environmental Impact Statement. Legal notices for public hearings are published no less than ten days and more than twenty days prior to a public hearing, in one of the legal Town newspapers. Our office has received a signed affidavit of publication from the newspapers.

We have two comment letter that have been distributed to the Town Board on this matter.

CON. MEM. FIORE-ROSENFELD:

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2 Supervisor Romaine, I had some question.

3 I mentioned to you right before
4 the start of this meeting at this public hearing
5 tonight, that we normally videotape every single
6 public hearing and public meeting, when we have a
7 Town Board meeting. We tape press conferences and
8 everything else, and we put it on Channel 18.

9 I'm just a little -- I understand
10 that we -- we need, quotes, the benefit of having a
11 stenographic record of tonight's meeting. But that
12 shouldn't forestall us from also having the
13 opportunity for the public to see this proceeding
14 on Channel 18.

15 So again, I'm still a little
16 unclear. I don't know if somebody can provide
17 clarity, if you can.

18 SUPERVISOR ROMAIN: Thank you.

19 I'll let our Town Attorney provide
20 clarity on this.

21 MS. EADERESTO: Steve, because of
22 the sensitive nature of this Plan, we wanted to
23 spend the money on a stenographer. And because of
24 the budget constraints and other things we didn't
25 want to doubly charge the Town, have all the time.

1

8

2 We didn't know how long this hearing was going to
3 go.

4 So we want the stenographer, so we
5 have a clear concise record, in case there's any
6 litigation in regard to this Plan. And that's what
7 we chose to spend the money on.

8 CON. MEM. FIORE-ROSENFELD: Right.

9 But in terms of open and
10 transparent government, we always videotape
11 everything. So I don't understand, because people
12 are not necessarily going to write in and ask us
13 for a stenographic message.

14 That's in case of a potential
15 litigation. I understand that point.

16 MS. EADERESTO: But we're also
17 going to file it at the Clerk's Office, and it will
18 be available to the public for --

19 COUNCIL MEMBER KEPERT: Yes. But,
20 you know, I certainly must concur with Council
21 Member Fiore-Rosenfeld. We do tape everything, you
22 know, no matter if it's a small little meeting. We
23 taped the meeting that the supervisors had in the
24 work session room.

25 We tape everything. And that's so

2 that our residents can see what's going on in the
3 Town Hall, even those who unfortunately maybe have
4 to work or can't get into the Town Hall.

5 So this is a very, very strange
6 and different occurrence here, that we are not
7 taping this very, very important hearing on -- on
8 how we're going to protect the Carmans River.

9 And certainly, you know, I would
10 advise that we should tape this meeting and allow
11 people to see what's going on. I think this is
12 going to be a very, very positive meeting. And I
13 am -- I am very hopeful that this Plan moves
14 forward and in a positive direction.

15 So I -- I am somewhat baffled that
16 we have asked our I.T. people to take down the
17 cameras and we're doing this, you know, in really
18 behind closed doors, it seems.

19 We need to have the public to have
20 access and many of them can't make it here to Town
21 Hall.

22 So this is a very, very strange
23 and rare occurrence, what is happening right now,
24 that we've asked our I.T. people to take the
25 cameras down.

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(ANNETTE EADERESTO, LEIGH RATE,
JOE SANZANO, and JOHN TURNER, testified as
follows:)

MS. EADERESTO: Mr. Supervisor,
may I begin?

SUPERVISOR ROMAIN: Yes, go
ahead.

MS. EADERESTO: Mr. Supervisor,
Town Council, Deputy Madam Clerk, good evening.

Tonight, we are holding a joint
public hearing, to receive public comment on the
Draft Carmans River Conservation and Management
Plan and its Draft Generic Environmental Impact
Statement. We will be simultaneously opening the
public hearings.

The adoption of the draft of the
Carmans River Conservation and Management Plan is a
Type I SEQRA action. And a Positive Declaration of
environmental significance was adopted by the Town
Board on June 18th, 2013.

The Town Board accepted the Draft
Carmans River Conservation and Management Plan and
associated D.G.E.I.S. for public consideration on
July 2nd, 2013, the date at which the written

2 public comment period provided under SEQRA
3 commenced.

4 The public hearing will close
5 tonight. But written comments can be submitted to
6 the Town Clerk until the close of business on April
7 9th, 2013 -- on August 9th, 2013.

8 However, we recommend to the Town
9 Board that you hold the written comment period open
10 until the close of business on August 21st, 2013,
11 after which the public comment period on the Draft
12 Management Plan and the D.G.E.I.S. will close. All
13 written comments received and testimony heard here
14 tonight will be addressed in the Final Generic
15 Environmental Impact Statement and may be reflected
16 as modifications to the Draft Carmans River
17 Conservation and Management Plan.

18 Tonight, we are here to present
19 and advocate for the adoption of this Carmans River
20 Plan. The adoption of this plan is just the first
21 step in protecting one of the most valuable and
22 precious areas of the Town of Brookhaven.

23 As with any first step, it can
24 sometimes be freighting. And the journey seems
25 long and filled with the unknown. There are some

2 who will attack the plan, in saying it will do
3 damage elsewhere in the Town. To those critics, I
4 say: Let's look back twenty years ago to the
5 adoption of the Pine Barrens Plan.

6 Many of us, myself included, felt
7 the core area of that original Plan would cause
8 other areas of the Town to be overdeveloped. As we
9 all know now, that never happened. The State,
10 County and Town purchased many of the core parcels.
11 And as we all know, the Pine Barrens Plan has
12 preserved our water into the next generations.

13 The Carmans River Plan will also
14 seek, through State, County and Town purchases, the
15 purchase of many of the core parcels. The Town,
16 the County, the State and the Federal Government
17 have part -- partnered to purchase many of those
18 parcels in the past.

19 Just a few examples:

20 Two of these parcels were annexed
21 to the Wertheim Estate. One was slated to be a
22 Home Depot.

23 We also acquired:

24 Camp Olympia;

25 Connecticut River Estates;

1

2

Novak;

3

Yaphank Creek;

4

Roebler (phonetic) Realty;

5

Lake Grove School;

6

Windwood Oaks, that has active

7

gray fox den on it;

8

Fab.

9

And that's just to name a few of

10

the 44 parcels and thousands of acres that have

11

already been preserved by our government.

12

This Town Board has always taken a

13

leadership role in preserving land. I have been

14

doing it since 1998, since the inception of that in

15

this Town. And through that leadership role and

16

through continued support through our capital

17

budget, we will continue to buy these.

18

And as we speak here tonight, the

19

County and the Town is, in fact, appraising the

20

Avalon parcels. That will hopefully be our

21

next -- maybe later this year or early in 2014,

22

we'll be in contract to purchase that.

23

As I am speaking here today, there

24

are -- beautiful images of the River -- River are

25

being shown on the screen to our right. Those

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2 images are worth a thousand words. And we have to
3 thank two of our Town employees for these beautiful
4 pictures. And they are Anthony Graves (phonetic)
5 and Luke Ormond, who have taken many of those
6 pictures that -- along the Carmans River. When one
7 hikes along the Carmans River, particularly in the
8 Wertheim Estate, one can see Long Island as it
9 existed before civilization, the beauty and peace
10 of nature.

11 Before I yield the floor to my
12 colleagues, who will be much more specific and give
13 you many more facts, statistics and -- and many
14 more studies that we've relied on for this Plan, I
15 wish to leave you with a quote from Henry David
16 Thoreau: For tonight, we wish to speak a word for
17 nature, for our river, for absolute freedom and
18 wildness, for all nature is doing its best each
19 moment to make us well. Nature is but another name
20 for health.

21 So this evening in our
22 presentation, we're asking this Board to, once
23 again, stand up for the Carmans River, and to
24 choose nature and adopt this Plan.

25 SUPERVISOR ROMAIN: Thank you

_____**ROY ALLEN & ASSOCIATES, INC., 516-542-2020**_____

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1

15

2 very much.

3 COUNCIL MEMBER WALSH: Supervisor
4 Romaine --

5 SUPERVISOR ROMAINE: And --

6 COUNCIL MEMBER WALSH: -- I would
7 just like to make a comment regarding the --

8 I didn't realize that we were not
9 filming this either, until it was mentioned by my
10 colleague. But Mr. Madigan is taping here. Is
11 there any way, if he's so gracious as to allow us
12 to share this, so that we could use Mr. Madigan's
13 video for Channel 18, so that the public could be
14 aware of the hearing.

15 SUPERVISOR ROMAINE: Sure. If
16 that's possible.

17 We -- we have a fixed amount in
18 our budget. And we need to have a legal
19 stenographer take the minutes, to ensure that we
20 have a written record. So --

21 COUNCIL MEMBER WALSH: Okay.

22 Maybe we needed to have
23 someone --

24 SUPERVISOR ROMAINE: I have no
25 problem, because I think this is --

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COUNCIL MEMBER WALSH: -- here --

SUPERVISOR ROMAINE: -- going to
be a very positive meeting. And certainly we are
hear to listen to people. I can tell you,
obviously, the final plan which will be adopted, I
hope -- right now our tentative schedule is October
15th -- will be fully televised.

COUNCIL MEMBER WALSH: Yes.

SUPERVISOR ROMAINE: So with that,
Commissioner.

MR. BERTOLI: Yes.

Good evening everyone.

As I've said many times, good
planning is a declaration of our beliefs, as
individuals, as a group and as a society. The
policy decisions that we speak -- that we make,
speak to the greater collective of our societal
values.

As a Town Board, you recently
enacted two codes which have strengthened our
preservation efforts. In one case, in the
intensification of land use would require a
litigation fee be set aside in our Macchia Fund.
In another instance, a Pine Barren redemption

2 component was included as a requirement of the
3 rezoning. Both of these efforts assure that that
4 sensible managed growth and preservation are
5 mutually connected as public policy.

6 As to the matter this evening, we
7 are addressing a more essential concern: Water is
8 life. That is a fundamental truth for biological
9 existence and cannot be disputed. Water is also a
10 fundamental need of biological communities,
11 including human ones. And that, too, cannot be
12 argued.

13 All too often in the past though,
14 fact and need have simply been ignored. Expediency
15 trumped it at the bottom of the argument.

16 Brookhaven now has the opportunity
17 to protect the Carmans River and its Watershed. In
18 so doing, we can demonstrate a fair, straight
19 forward and efficient method for equitably managing
20 water resource protection. The Carmans River
21 Conservation and Management Plan's intent is to
22 promote clean water and is protecting land with a
23 clear purpose by a clear process.

24 The importance of the Carmans
25 River Plan is especially evident when seen in its

2 historical context. It was on July 13th, 1993,
3 nearly twenty years ago, that the Governor, George
4 Pataki, signed the Long Island Pine Barrens
5 Protection Act, thereby securing that the region --
6 assuring that the region with a hundred thousand
7 acres was protected through the development and
8 implementation of a comprehensive land use plan.

9 The intent of this Plan was to
10 protect the Long Island's largest natural areas and
11 its last remaining wilderness. It also served to
12 ensure to the protection of the vital sole-source
13 aquifer for Long Island's drinking water.

14 And the Pine Barrens Act also
15 created a Central Pine Barrens Joint Planning and
16 Policy Commission to oversee the Plan and dividing
17 the area into two regions:

18 A core 53,000-acre area where no
19 development is permitted at all. Later, with the
20 addition of the Wertheim Wildlife Refuge, that was
21 extended to 55,000 acres;

22 Additionally, a compatible growth
23 area of 47,000 acres, where limited environmental
24 compatible development was allowed, was also
25 created.

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In that initial process, however, there was a flaw. While the upper Carmans River was included in the 1993 Act, the lower portion of the River was not, because it was deemed adequately protected at the time. In a sense, this view meant that the River was not considered as a total ecologically-closed system that needed to be addressed on its separate merits.

This Carmans River Plan corrects that misconception by first adding 1,660 acres to the core and 2,215 acres to the C.G.A., so that the physical area is inclusive of the most fragile part of the River's ecological system.

More importantly, this Plan addresses the River's ten-mile life as a complex ecosystem that affords diverse habitats to plant and animal species, both common and rare. Equally, these habitats become intricately entwined with human and non-human activities of all this length.

So the Watershed could really be understood not only as a boundary, but also as a complex overlapped scene with ecological activities.

The challenge of the Carmans River

1
2 Plan has been to create goals that assure the
3 long-range viability of the River. To this end,
4 from the very beginning, the Carmans Rivers Plan
5 proposed four overreaching goals:

6 First, for the sake of everyone
7 and everything, improve and protect water quality
8 both above and below the surface;

9 Two, protect and restore the
10 species and biodiversity of the main -- of the main
11 kinds of habitat present here and along the River,
12 streams and lakes, woodlands and floodplains in the
13 riparian areas;

14 Three, reduce the territory
15 invaded and held by non-native plant species and
16 encourage the return to dominant -- dominance [sic]
17 of native ones;

18 And lastly, advance and promote
19 environmental stewardship, outreach and education.

20 Conservation and restoration of
21 natural habitat and improvement of human habitat
22 can and must go hand in hand, precisely because
23 there's actually no way of conceptually or
24 factually separating them. We must recognize
25 ourselves and how we live, as inseparable from all

2 the aspects of the places where we live. We must
3 be conscious and responsible in what we choose to
4 do and choose not do.

5 The Carmans River Plan is an
6 environmental plan, which will help Brookhaven
7 accomplish at least two kinds of things. As its
8 name signals, it will, of course, be an aid towards
9 preserving, protecting and restoring the beauty,
10 and health and value of the River, for the lands
11 around it and with the plants and animals living in
12 both.

13 Beyond that and even more
14 importantly, it will help us protect ourselves as a
15 community, by allowing us to embrace the
16 stewardship of our environment in sensible planning
17 for our future. And perhaps, that is its greatest
18 value.

19 SUPERVISOR ROMAIN: Thank you.

20 Ms. Rate.

21 MS. RATE: As everyone is aware,
22 the Carmans River Plan recommends that the core
23 area and Compatible Growth Area of the Pine Barrens
24 be expanded. The State Legislature has passed a
25 bill to that effect which awaits signature by the

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Governor.

I'd like to expand on the discussion regarding the status of the Pine Barren credits in the Town, in the expansion.

The Pine Barren's Act has been in effect for twenty years. It's a proven model and there is no evidence that the TDR Program has lead to an increase of development in the Town. In fact, most of the property designated core area of the Pine Barrens has been purchased by the Town and other government agencies.

At the outset, 2,865.5 Pine Barrens Credits were available in the Town. There are only 578.63 credits left.

Over 2,000 credits have --
SUPERVISOR ROMAIN: How many are left?

MS. RATE: 578.63.
SUPERVISOR ROMAIN: Out of how many?

MS. RATE: 2,865.5.
SUPERVISOR ROMAIN: And that's just in Brookhaven.

So --

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MS. RATE: That's in Brookhaven.

SUPERVISOR ROMAIN: -- what
percentage of the Pine Barrens Credits, roughly,
have been used?

MS. RATE: About 70 percent --

SUPERVISOR ROMAIN: About 70
percent?

MS. RATE: -- has been
extinguished by municipal purchase.

SUPERVISOR ROMAIN: Thank you.

MS. EADERESTO: Go ahead.

MS. RATE: There are currently
3,757 parcels in the core area at that, three --
30,000 acres, 2,305 parcels. That's almost 28,000
acres are in public ownership. That's 91 percent.

And this Carmans River Plan
highlights acquisition for the means of
preservation. The Town Board has already allocated
\$2 million for acquisition of properties
recommended by the Carmans River Plan.

COUNCIL MEMBER KEPERT: Excuse me.

But just -- just for
clarification, are you talking about the Pine
Barrens core, the entire core?

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MS. RATE: Yes.

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COUNCIL MEMBER KEPERT: So not

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just -- so you're expanding beyond the Carmans

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River Plan?

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MS. RATE: Yes, I'm talking about

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the entire --

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COUNCIL MEMBER KEPERT: You're

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talking about the --

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MS. RATE: -- core area.

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COUNCIL MEMBER KEPERT: -- the --

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MS. RATE: And how -- and yes, how

13

the TDR Program --

14

COUNCIL MEMBER KEPERT: The past

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one.

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MS. RATE: Yes.

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COUNCIL MEMBER KEPERT: Okay.

18

Great.

19

MS. RATE: Historically.

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The Town Board has also passed the

21

land use intensification mitigation fee, which has

22

the potential to generate \$3 million a year for the

23

Macchia Fund, for the purchase of the open space.

24

Also, in the past, the Town has

25

allocated \$179 million in capital bonds for Open

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2 Space Acquisition. And we anticipate that we can
3 fulfill this trend and that we'll have a successful
4 rate of acquisition in the core area. Again as
5 stated earlier, we have a 70-percent acquisition
6 rate.

7 As I stated earlier, there are
8 approximately 578.63 Pine Barrens Credits remaining
9 in the Town. Of that number, 215.79 credit
10 certificates have been issued. 362.84 credits
11 remain without certificates being issued. That's
12 about 60 percent of the remaining credits.

13 The core --

14 COUNCIL MEMBER KEPERT: And I'm
15 going to interrupt you one more time.

16 Can you just explain to the
17 public, what does that mean?

18 MS. RATE: Okay.

19 We have 578 credits available in
20 the Town. 215 and change have gone to
21 Clearinghouse, Pine Barrens Clearinghouse, and have
22 actually redeemed certificates. So that -- that's
23 basically just a piece of paper that says they have
24 'X' amount of Pine Barrens Credits.

25 There are another 362.84 credits

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available that do not have certificates issued. So
60 percent of the credits from the Town, do not
have certificates issued by the Pine Barrens
Clearinghouse.

COUNCIL MEMBER KEPERT: And this
is since -- what was it, 1992?

Dick, what --

MS. RATE: 19 --

COUNCIL MEMBER KEPERT: -- year
was it?

MS. RATE: -- 1993.

COUNCIL MEMBER KEPERT: 1993.
So since 1993, they haven't gotten
a certificate?

MS. RATE: That's correct.

COUNCIL MEMBER KEPERT: Okay.

MS. RATE: Okay.

With the core expansion as
recommended by the Carmans River Plan and pursuant
to the pending State Legislation, this would create
an additional approximately 135 in credits.

We're going to submit that data to
the -- to the Town Board, just so you know, when
Joe does his presentation.

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CON. MEM. FIORE-ROSENFELD: I -- I
just have another question.

Do we have those same numbers for
the Towns of Riverhead and Southampton, as well?

MS. RATE: I don't have them. But
they're easily available on the website.

CON. MEM. FIORE-ROSENFELD: Yeah.
We should try to get them, because I'm being told
that even since the original Pine Barrens Act,
although it's almost rarely ever occurred, other
towns can -- credits created in another Town of
Riverhead or Southampton in the original Pine
Barrens Act, could be redeemed in our township.
Although it's been a rare occurrence, that could
happen.

MS. RATE: I think from the stats
that I saw, that may have occurred once or twice.
And it was in relation to Riverhead.

CON. MEM. FIORE-ROSENFELD: Right.
But it can happen.

MS. RATE: It -- it can happen.
And actually, the data that we'll provide will show
that. If that has occurred, you'll be able to see
it.

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CON. MEM. FIORE-ROSENFELD: Great.
Thanks, Leigh.

MS. RATE: According to this data that's available by the Pine Barrens Clearinghouse since 1996, 244.4 Pine Barrens Credits have been redeemed. Seventy percent of all that redemption for Pine Barrens Credits has been used for sanitary purposes in Suffolk County Health Department, for commercial and industrial projects.

The remaining thirty percent has been redeemed for the Health Department purposes, for residential development. However, of that 30 percent, only 14 percent of those credits were used for both sanitary purposes and also an increase in residential density in the Town.

So in 17 years, only 14 percent of the Pine Barren Credit redemption has been used for an increase in residential density.

To put it in further perspective, of the 2,865.5 Pine Barrens Credits that were originally created, 34.6 have been used for residential density purposes in the Town. That's 1.2 percent of all the credits created.

SUPERVISOR ROMAIN: So let me

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just understand that, again.

You're saying only 1.2 percent of all Pine Barrens Credits have been used to increase density --

MS. RATE: That's correct.

SUPERVISOR ROMAIN: -- of residential density or housing?

MS. RATE: That's right -- and since 1996.

SUPERVISOR ROMAIN: So -- and then you're saying that this could be an increase in density. Obviously, the facts would seem to belie that?

MS. RATE: I would say so.

CON. MEM. FIORE-ROSENFELD: Wait, wait, wait one second. Hold on a second.

The Towns, as I understand it, both Brookhaven, Southampton and Riverhead, we haven't really been the primary mode which these have been redeemed up to this point; correct.

It's been primarily Suffolk County using it for septic system purposes, which is generally a commercial business looking to maybe get a few more seats in a restaurant, for instance;

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30

2 is that correct?

3 MS. RATE: That's correct.

4 Seventy percent of redemption in
5 the Town goes to sanitary -- for sanitary purposes
6 for a commercial restaurant.

7 CON. MEM. FIORE-ROSENFELD: Right.

8 But with the new multi-family code
9 that this Town Board just passed -- not everybody
10 included in this Town Board voted for it -- but
11 it -- it envisions that we're going to be using the
12 Pine Barrens Credits that we're talking about for
13 redemption towards additional multi-family density;
14 correct?

15 MS. RATE: I wouldn't necessarily
16 say that's -- that's the case, that it's a
17 mechanisms to increase density. But, you know
18 what, I have those stats, too, and -- and I can
19 give you that math.

20 CON. MEM. FIORE-ROSENFELD: So you
21 wouldn't say that, even though that's the facts?

22 MS. RATE: Well, with what I
23 can --

24 COUNCIL MEMBER PANICO:

25 Councilman, if I may -- if I may --

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MS. RATE: -- if we finish

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this --

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COUNCIL MEMBER PANICO: --

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Councilman, the original Pine Barrens Act back from

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'92 translated those credits into multi-family

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housing as well, and development. So I don't think

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it's any characterization of what Ms. Rate is

9

saying.

10

I think the original Pine Barrens

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Act, which I believe you were a supporter of,

12

necessitates that as well. And I'm not sure I

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would equate seats in a restaurant to a

14

development.

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CON. MEM. FIORE-ROSENFELD: What

16

I'm -- I guess all I'm trying to point out is, is

17

that there could potentially be, given the economy

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that we're in right now and given the most recent

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multi-family code that we passed, there's an

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expectation in the development world that they're

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going to be using this for residential density.

22

And I think that that -- although,

23

that was their expectation probably back in '92

24

when they went along with the original Pine Barrens

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Act, there have been other new codes in our Town of

2 Brookhaven that we put in place, such as the
3 multi-family code which envisions a redemption of
4 Pine Barrens Credits. That's all I'm pointing out.

5 MS. EADERESTO: I -- I think if we
6 can finish her presentation, she can answer some of
7 your questions, Council Member.

8 MS. RATE: Okay.

9 CON. MEM. FIORE-ROSENFELD: Well,
10 I -- I think that's fine. It's just that I
11 wouldn't want the people that are -- I guess, at
12 this point, either viewing ABCO's video or reading
13 the minutes to believe that what has happened in
14 the past, is automatically predictable it's going
15 to happen in the future, with Pine Barrens Credits.

16 MS. EADERESTO: Well --

17 CON. MEM. FIORE-ROSENFELD:
18 Because I think that's what was going through --

19 MS. EADERESTO: -- if we did
20 the --

21 CON. MEM. FIORE-ROSENFELD: --
22 that's what -- that's what the presentation was
23 suggesting.

24 MS. EADERESTO: Certainly, the
25 past is sometimes a view into the future. And

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2 that's what I think Leigh is trying to convey here
3 tonight, that the fear that this is going to create
4 massive overdevelopment in the Town is just not
5 founded.

6 CON. MEM. FIORE-ROSENFELD: I -- I
7 don't think --

8 MS. EADERESTO: It still --

9 CON. MEM. FIORE-ROSENFELD: -- I
10 don't think it was Ms. Rate. It think it was the
11 Supervisor that was suggesting that, discussing
12 that with Ms. Rate.

13 But I just wanted to point out for
14 the --

15 MS. EADERESTO: It's -- it's all
16 of us. We -- we all believe that, that are
17 presenting this tonight.

18 CON. MEM. FIORE-ROSENFELD: Okay.
19 That it's not to increase
20 residential development. It's only going to be one
21 percent increase in residential development in the
22 future; is that what we're saying?

23 MS. EADERESTO: Well, I -- I -- we
24 don't know. We're telling you what the past was.

25 But our -- our vision of this Plan

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2 and what we've done since 1998 as far as
3 preservation and -- and acquisition of core
4 parcels, we feel will, with the acquisition by the
5 County, the State and the Town of these Carman --
6 Carmans River parcels, we feel will greatly
7 minimize.

8

But Leigh has some statistics on
9 the multi-family that will answer what you're
10 saying and -- and show you, even if we use them off
11 of multi-family, what would happen.

12

So that's why I wanted her to --

13

CON. MEM. FIORE-ROSENFELD: Okay.

14

15

MS. EADERESTO: -- be able to

16

finish.

17

CON. MEM. FIORE-ROSENFELD: That's

18

fair.

19

MS. RATE: Yes.

20

I'd like to put it in perspective,

21

because we've said this before. In 26 years, the

22

Town Board has approved 13 percent of the

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multi-family applications that have come before it.

24

So there's -- I don't expect that there's going to

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be suddenly a run on multi-family approvals.

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But I, if -- if -- even if we assume between what the existing credits and the new credits, we get to 730 Pine Barrens Credits that would be available. Historically, we have a 70 percent acquisition rate. There's only 14 percent rate redemption for increase in residential density.

So if we go on the premise that every single one of those Pine Barrens Credits that are left available goes to multi-family, and none of them go for redemption for single-family development, worst-case scenario, we get 150 multi-family units throughout the Town.

And if I can put that in further perspective --

SUPERVISOR ROMAIN: Excuse me. That's the worst-case scenario?

MS. RATE: That is the worst-case scenario.

SUPERVISOR ROMAIN: If they all went to multi-family.

MS. RATE: After you consider the -- the rate of acquisition, municipal acquisition, plus the 14 percent historic

2 redemption rate on -- on increase in residential
3 density, we end up with 150 multi-family units.

4 The Town of Brookhaven is the
5 largest Town in New York State by area. The Town
6 of Brookhaven is the second-most populous Town in
7 New York State with 486,000 residents. That's --
8 150 units represents .03 percent of the population
9 in our Town.

10 CON. MEM. FIORE-ROSENFELD: Okay.

11 I'm -- I'm a little confused with
12 these statistics. You're going to have to slow
13 down, because you said there's how many outstanding
14 credits right now?

15 MS. RATE: With the core expansion
16 that was being imposed, there would be 713 Pine
17 Barrens Credits.

18 CON. MEM. FIORE-ROSENFELD: And
19 you're saying that would only amount to 150
20 multi-family units?

21 MS. RATE: I'm saying that if we
22 take into consideration the fact that there's a 70
23 percent acquisition rate by municipalities, and
24 since 1996, in 17 years, only 14 percent of Pine
25 Barren Credit redemption has gone for increased

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density.

CON. MEM. FIORE-ROSENFELD: Okay.

But wait. Hold on -- hold on.

Again, you're saying that the past is predictive of the future. I'm saying, we're dealing with a completely different economy. We're dealing with where we have basically spent a hundred-million bond act, long since gone, and the previous twenty million dollar on and the previous ten million one.

So the Town, we're basically all but out of serious capital dollars to buy open space in Brookhaven. We haven't seen the County -- you know, other than of course what's in the Drinking Water Protection Program, which we all keep fighting to maintain. That, you know, may or may not be move at the same rate.

So you're -- you're suggesting this as the past, the rate that we've been acquiring open space is going to continue to move forward, to come up with your statistics. And we know that's just not true. That that's the problem that I'm having with the way you're presenting this.

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MS. RATE: Okay.

I -- I don't know that I can
debate that point with you.

I think this is -- this is what
statistically we have to --

CON. MEM. FIORE-ROSENFELD: I'm
not looking to debate. I'm -- I was looking at
hard facts.

MS. RATE: Okay.

I'm giving you the facts of what
historically happened.

And I'd like to make one other
point, that we're talking about a core area
expansion under the Pine Barrens Act. The Pine
Barrens Act has been in effect for 20 years and
with a very successful TDR Program. To suddenly
characterize the Pine Barrens Act as some kind of
development plan, which is really where that kind
of heads to say that --

CON. MEM. FIORE-ROSENFELD: I -- I
didn't state that.

MS. RATE: -- over expansion leads
to over development --

CON. MEM. FIORE-ROSENFELD: If --

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2 you're now putting words in my mouth, Ms. Rate. I
3 did not say that.

4 It did envision, in its original
5 origin, that towns would find places to redeem
6 credits. And none of the three towns really, it
7 seems to me, have successfully done that.

8 It's only been primarily through
9 the County's plans that, non-corrected, that the
10 County -- primarily the County's plan of allowing
11 for redemption of Pine Barrens Credits for septic
12 system purposes. That's why -- what percentage did
13 you say was deemed for commercial?

14 MS. RATE: Seventy percent. And
15 70 percent have been purchased by municipalities
16 and government agencies.

17 So I would say that the majority
18 of the credits within the Pine Barrens core area,
19 have been purchased and extinguished by
20 municipalities.

21 CON. MEM. FIORE-ROSENFELD: Right.

22 And that's -- and that's -- and
23 that's a fact. That's true, but that was before.

24 Again, you know, you've got towns.
25 There's been pressure put upon us. We've heard

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2 this through various means, that we need to find
3 redemption areas for these things, and we can't
4 just simply depend on the County to redeem all the
5 credits.

6 And as I pointed out, clearly the
7 State has had less and less money for open space
8 acquisition and so, too, our Township right now.
9 So I mean, I know you know those are facts.

10 MS. RATE: I know.

11 CON. MEM. FIORE-ROSENFELD: So I
12 just, again, feel that what was predictive of the
13 past -- I -- look, I -- I'm really hopeful. I know
14 that this Plan -- I feel pretty good about this
15 Plan, compared to last year's plan.

16 But I just don't like it presented
17 in a way that doesn't seem to be factually based.
18 That's -- that's what I'm concerned with.

19 You're talking about the past.
20 And the past, given the economy, given the lack of
21 open space, resources and given that we've just
22 passed a new multi-family code that envisions
23 redemption of Pine Barren Credits, I think to -- to
24 predict that that many credits are going to amount
25 to only 150 multi-family units, I -- I don't know.

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2 I find it, you know, not based in reality.

3 COUNCIL MEMBER KEPERT: And just
4 let me add something here.

5 I mean I think that it is a good
6 plan, even if it produces more than 150
7 multi-family units.

8 CON. MEM. FIORE-ROSENFELD: Yes.

9 COUNCIL MEMBER KEPERT: So I think
10 this whole case that you're making is unnecessary.
11 That's it's a good plan as it is. Even if more of
12 those credits are redeemed for multi-family units.

13 MS. EADERESTO: Connie, just so
14 you know, some of what we're addressing here today
15 came up in all of the informational hearings. So
16 we felt it was important to address the peoples'
17 questions. And that's part of Leigh's statement.

18 COUNCIL MEMBER KEPERT: Okay.

19 MS. EADERESTO: And I think Ms.
20 Rate's supervisor, Joe Sanzano, will be the next
21 speaker.

22 SUPERVISOR ROMAINE: Okay.

23 Joe -- Joe.

24 MR. SANZANO: Good evening.

25 The -- the Carmans River

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2 Conservation and Management Plan recommendations --
3 let me just wait until the slide right here --
4 offers a series of recommendations in 18 different
5 categories. These recommendations are designed to
6 meet the goals of the Management Plan. Tonight,
7 we'll present each of the recommendation categories
8 and summarize their content.

9

But based on some of the
10 information and the comments that we received
11 during our public outreach and information sessions
12 along with follow-up meetings, some new ideas have
13 been formulated. And we are currently working on
14 revising some of these recommendations.

15

We hear -- you may also hear
16 public testimony regarding some of these changes.
17 And we believe that we can improve the
18 recommendations currently provided on the Draft
19 Management Plan.

20

And therefore, please let this
21 record reflect that these comments should be
22 addressed in the Final Generic Environmental Impact
23 Statement, then examine the potential amendments to
24 the Carman's River Conservation and Management
25 Plan.

1
2 The first recommendation in the
3 Management Plan involves the essential Pine Barrens
4 which we were all just discussing. These
5 recommendations are based on the 1995 Central Pine
6 Barrens Comprehensive Land Use Plan, which I have
7 here today. This approach was utilized as a tool
8 for the preservation as a tried-and-true method of
9 limiting development within the Management Plan
10 area.

11 As we had heard that the State
12 Legislature approved the expansion of the core
13 preservation area and the common growth area of the
14 Central Pine Barrens, and the law is now awaiting
15 the signature of the Governor. And we expect this
16 legislation to be signed by the Governor. And if
17 it does, we would -- it would take effect in
18 January of 2014.

19 With the -- within the core area
20 expansion area, we choose vacant and undisturbed
21 properties within the two- to five-year groundwater
22 contributing area for inclusion in to the core
23 preservation area. These lands performed a
24 completion of the central part of the core area,
25 between Cathedral Pines to the north, and Wertheim

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2 and Southaven Park to the south.

3

The land selected were those

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bordering along the Carmans River and also

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included other publicly-purchased properties,

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publically-owned properties that had been acquired

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since the core boundaries were established in 1993

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and then amended in 1998.

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This proposed core area --

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preservation area expansion consists of about 1,660

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acres, of which 1,177 acres are in -- currently in

12

public land. And only 483 acres are private and

13

unprotected land. The addition of these 483 acres

14

would anticipate to generate approximately 135 new

15

Pine Barrens Credits, as we had previously just

16

heard.

17

The Plan does offer a series of

18

Pine Barrens Credit redemption tools. We look at

19

this as a package of tools that we can use to

20

redeem these credits.

21

The tools include the redemption

22

of credits through outright acquisition. And we

23

had heard that we -- we do anticipate a 70 percent

24

acquisition rate on those credits.

25

Our Residential Overlay District

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2 is an existing Town Code provisions that provides
3 for a Pine Barrens Credits to be used on
4 residential subdivisions, for an increase in the
5 number of lots.

6

Another tool we have is our
7 Planned Development District. That has been --
8 traditionally been used for Pine Barrens Credit
9 redemption. Sanitary redemption is the most
10 popular form of redemption for commercial and
11 industrial lands, as 70 percent of the existing
12 Pine Barrens Credits have been used for -- for this
13 purpose.

14

And lastly, by many, our MF Zoning
15 Code which now requires the redemption of Pine
16 Barrens Credits for approved change of zones.

17

That is -- these tools form the
18 basis of our Pine Barrens Credit Redemption
19 Program.

20

The New York State Law and the
21 Carmans River Conservation and Management Plan also
22 consider the expansion of the compatible growth
23 area on the Central Pine Barrens. Properties
24 within the zero to five groundwater contributing
25 area south of the L.I.E. between Yaphank Avenue and

William Floyd Parkway, were considered for inclusion into the compatible growth area.

This Pine Barrens compatible growth area expansion includes privately-owned land, which consists of approximately 200 -- 2,215 acres. And any new development within the compatible growth area expansion will -- must meet the land use and development standards as provided by the Central Pine Barrens Comprehensive Land Use Plan and Brookhaven Town Code, including but not limited to clearance standards and limitations on fertilizer-dependent vegetation.

The next recommendation on the Management Plan is a comprehensive rezoning effort. The Management Plan offers an ambitious -- an ambitious set of rezoning recommendations. These recommendations are based on existing zoning patterns, as well as the recommendations of the Long Island Regional Planning Board's 208 and 205J Studies and on along 1996 Town of Brookhaven Comprehensive Land Use Plan, which I have here for you today.

The importance of these studies cannot be emphasized enough. Not only did these

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plans set the stage for development patterns across Long Island and particularly within the Town of Brookhaven, but they also provide specific recommendations with regards to the Carmans River.

Some of these recommendations include:

Preservation of open space for acquisition;

Reduced nitrate loading;

Control population and density through zoning;

Cluster development projects;

And prevent development adjacent to the River Corridor.

These same recommendations are provided in this Carmans River Conservation and Management Plan. The Management Plan identifies approximately 2,084 acres of privately-owned residential properties within the zero to five ground -- year groundwater contributing area, that are -- which are recommended to be rezoned to an A-2 zoning.

The Management Plan further recommends that approximately 1,471 acres of

publicly-owned, residentially-zoned lands within the zero- to 100-year groundwater contributing area are recommended to be rezoned to a five-acre zoning or an A5 residential district. 605 acres of publicly-owned park and open space land is proposed to be rezoned to our A10 residential district.

The Management Plan further recommends that its use -- that the -- that -- I'm sorry. The Management Plan offers specific recommendation that direct our Town of Brookhaven Board of Zoning Appeals. This recommendation requests that our Town B.Z.A. evaluate all application requests with respects to the goals and recommendations of this Management Plan.

With regards to the New York State Wild and Scenic Recreation Rivers Act, the Town of Brookhaven has a long history of upholding and enforcing the requirements of this act. The Carmans River along with the Peconic River are the only two rivers within the Town of Brookhaven that are controlled by the W.S.R..

Along the -- although the existing W.S.R. was examined in the Management Plan for possible amendment, it was determined that no one

1
2 required or needed it. However, the W.S.R. clearly
3 requires the preparation of a Management Plan. And
4 no plan to date has been prepared for the Carmans
5 River, until now.

6 The Wild, Scenic and Recreations
7 River is sectioned into two categories, the scenic
8 and the recreation.

9 The recreation category requires a
10 minimum of two acres per lot for new residential
11 construction. There is limited commercial and
12 industrial uses and limited multi-family uses and
13 densities.

14 The scenic category requires a
15 minimum of four acres per residential lot for a new
16 construction. Commercial, and industrial and
17 multi-family are prohibited in this scenic
18 district. However, much of the land in the scenic
19 areas are already in public ownership.

20 An update to the Management Plan
21 recommendation should also include the creation,
22 perhaps, of a new zoning district for a four-acre
23 residential district to comply with the scenic
24 section of the Wild, Scenic Recreation Rivers Act.

25 COUNCIL MEMBER KEPERT: And -- and

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WSR

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2 Joe, I'm sorry, I know you're on a roll here.

3

4 But as far as the scenic river
5 boundaries, can you possibly point to those?

5

6 MR. SANZANO: If you can see the
7 mouse right here (indicating), this (indicating) is
8 the scenic area which is really Cathedral Pines.

8

9 COUNCIL MEMBER KEPERT: Okay.

9

10 Which is publicly held, obviously?

10

11 MR. SANZANO: Yes, Cathedral Pines
12 is publicly held.

12

13 Then further to the south, this
14 (indicating) is a recreational area whereas Upper
15 Lake and Lower Lake, and that's that green area
16 (indicating).

16

17 COUNCIL MEMBER KEPERT: So that's
18 the -- that's the boundary for the lake.

18

19 So you're saying very close to the
20 boundary of the lake is the scenic recreational
21 area?

21

22 MR. SANZANO: That's the
23 recreation area.

23

24 COUNCIL MEMBER KEPERT: Okay.

24

25 MR. SANZANO: And then south of
the Expressway, which gets in Southaven Park is the

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other part of the scenic recreation -- of scenic river area. And that's all publicly owned.

COUNCIL MEMBER KEPERT: Okay.

MR. SANZANO: The southern half of Southaven Park, that's a recreation area. And that's where they have the boat launches, and the canoes and -- and those, so that the --

COUNCIL MEMBER KEPERT: So a large part of the Wild and Scenic River area in the scenic or recreation are currently held in publicly --

MR. SANZANO: In public ownership.

COUNCIL MEMBER KEPERT: Okay.

MR. SANZANO: And then south of the Sunrise Highway is the other part of the scenic. And this is where there are some private lands within that area along Sunrise -- between Sunrise and Montauk Highway.

COUNCIL MEMBER KEPERT: Okay.

MR. SANZANO: And then south of Montauk Highway is -- is waterfront.

COUNCIL MEMBER KEPERT: All right.

Thank you.

MR. SANZANO: This Management Plan

1
2 reaffirms the W.S.R. and advises that the Town of
3 Brookhaven continue to take assertive steps to
4 ensure the compliance and improve the existing
5 protections which are already in place, including
6 our:

7 Zoning code restrictions;
8 Land use restrictions;
9 And other wild and scenic
10 recreation where there is no regulations.

11 The next collection of
12 recommendations focus on our natural resources
13 within the Carmans River Management Plan area.
14 These recommendations include amendments to the
15 Chapter 81 of the Town Code Wetlands and Waterways,
16 which would prohibit new construction of primary
17 and accessory structures in clearing and
18 fertilization within 50 feet of the land edge of
19 the wetlands and surface water.

20 If enacted, this would not only
21 apply to the Carmans River, but would apply to all
22 surface waters throughout the Town of Brookhaven,
23 providing additional protections to our most
24 sensitive and natural resources.

25 This section also offers general

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2 recommendations related to public access to a
3 waterway, by creating a dedicated trail system and
4 creating wildlife crossing infracture to minimize
5 wildlife mortality.

6 Another recommendation is to limit
7 the fertilizer -- fertilization and the use of
8 pesticides on public lands within the natural plan
9 area, and to request the same from our open space
10 partners in the State of New York and the County of
11 Suffolk.

12 Based on best-management practices
13 and in accordance with the New York State Storm
14 Water Management Design Manual, which I have for
15 you here today (indicating).

16 (Laughter.)

17 MS. EADERESTO: We're going to put
18 all those in the record, when he's finished.

19 (Laughter.)

20 MR. SANZANO: The Management Plan
21 offers recommendations to control storm water and
22 recharge it, before it gets to the surface water.
23 The Management Plan recommends that the Town
24 implement corrective storm water measures on Town
25 roads, and work with the County of Suffolk and the

1
2 State of New York to implement corrective measures
3 on County and State roadway networks.

4 In addition, public education and
5 outreach should be provided to educate the public
6 on the common actions likely to adversely impact
7 groundwater and surface water, from the discharge
8 of pollutants through storm water systems. Several
9 other recommendations of the Management Plan also
10 provide for corrective measures to resolve flooding
11 concerns in the area along Middle Island Road,
12 north of Middle Country Road in Middle Island.

13 The Management Plan contains
14 general recommendations regarding public outreach
15 and education. It is important that our residents
16 and homeowners know that vital information about
17 living within the Carmans River Watershed. The
18 Town of Brookhaven should develop and implement a
19 public education program, which would include
20 actions that they can take to enhance and protect
21 the Carmans River, including proper fertilization
22 of their lawns, proper disposal of chemicals and
23 other hazardous and household items.

24 The Management Plan also
25 recommends that Watershed signs be placed on key

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roadways, informing drivers that they are entering the Watershed area.

SUPERVISOR ROMAIN: Thank you, Joe.

I just would say that all of those reports and -- will be entered into the record. And I assume that when Planning worked on the Carmans River Plan, they used many of these reports as the basis of that plan.

Would that be a safe assumption?

MR. SANZANO: Yes, sir. That would be a very good assumption, yes.

SUPERVISOR ROMAIN: Thank you very much.

At this point, we have people that have signed --

MS. EADERESTO: John Turner.

SUPERVISOR ROMAIN: Oh, John.

I'm sorry.

MS. EADERESTO: He was last, but certainly not least.

SUPERVISOR ROMAIN: Last, but certainly not least.

John has been very instrumental in

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helping draft this plan. John has been very instrumental in advising and guiding this Plan.

So we're very appreciative of your efforts, John. Thank you very much.

MR. TURNER: Thank you, Supervisor Romaine.

Good evening to you and to members of the Board, Counselor Eaderesto, the Town Clerk.

My name is John Turner, for -- for the record.

I am a consultant to the Department of Law, Division of Land Management. And some of you know me -- my prior iteration when I was the Director of the Division of Environmental Protection for approximately seven years from 2003 to 2010. And I'm delighted to have played a -- a minor role in the formulation of the -- the Plan that is before you for consideration.

What I would like to do is to just to continue what Joe has done already, and that is highlight some of the recommendations that are contained in the Plan.

From our perspective, the recommendation section of the Plan is the most

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2 important. That's where the rubber meets the road.
3 That's the -- the strategies that we're going to be
4 coming to the Board and the public will be coming
5 to the Board, with regard to implementation to try
6 to make meaningful improvements to the River. So
7 it's really worthwhile highlighting the
8 recommendations before you tonight.

9

Picking up on open space
10 acquisitions, you can see from the map here
11 (indicating) that a key recommendation in the Plan
12 is to continue to acquire open-space properties. I
13 want to put it in context to you. Joe did a great
14 job of talking about the Pine Barrens expansion and
15 the re-zonings.

16

The Open Space Acquisition is kind
17 of the third strategy that deals with the
18 undeveloped lands that remain in the Carmans River
19 Watershed. Keep in mind that this Plan is
20 wholistic in that it relates to both the developed
21 and the undeveloped landscape.

22

And I'll be getting to some of the
23 recommendations that strike these that relate to
24 the developed landscape in a minute. But I do want
25 to make that point so it really puts it in context

2 to you, that the Open Space Acquisition proposal on
3 top of the two that Joe talked about really deals
4 with the undeveloped plans.

5 The Town has identified several
6 hundred acres that are highlighted in red
7 (indicating), and secondarily those that are
8 in yellow (indicating) as -- as priorities for
9 acquisition. And we were informed by -- utilized
10 a -- a, kind of a land acquisition framework, a
11 matrix that I put together for the first iteration
12 in the plan. And I had the pleasure of working on
13 that.

14 And in doing the research for that
15 open space framework, decided that there were four
16 criteria that were most important to try to come up
17 with some type of prioritization. Any land
18 acquisition ranking system has its shortcomings.
19 It all depends on what values you want to assign to
20 the different criteria. But the ones within this
21 particular case we thought would be pretty much
22 equally rated. And they were size, landscape
23 position, the intrinsic resources of property and
24 the location of the property within the time of
25 travel zone.

I won't go into all of that in detail. But I do want to maybe just highlight two of those.

Landscape position. What we mean by that is if we take a five-acre parcel, if that parcel is an isolated five-acre piece that is out here (indicating) towards the periphery of the Watershed, just within the 75- to 100-year zone that's surrounded by residential development, the Town Board acquiring that piece probably has more limited value, than acquiring a five-acre piece that's actually sandwiched between two existing Town preserves. The additional benefits you get from that is, of course, is protection of one contiguous wildlife habitat and the assumption of the trail system that Joe talked about.

So the landscape position of the property is important. And then the time of travel zone is important. Again, if you have a property that is just right along the River within a zero to five -- excuse me, two to five time of travel zone, that property has greater value in terms of its potential impact on water quality in the River, than a -- than a parcel that's again out in the

1

2 or 75 year.

3

4 So we use those four criteria to
5 rent properties. And what you see is a -- is a
6 result of that ranking.

7

8 I do want to make note that this,
9 as -- as Counselor Eaderesto conveyed in her
10 opening remarks, that this is really based and --
11 and is -- follows up on an already-significant Town
12 effort over the past 15 years, in which the Town
13 has spent, as Counselor Rate indicated, more than
14 \$175 million which you've committed for land
15 acquisition throughout the Town, many of these
16 properties being in the Carmans River Watershed.

17

18 In fact, most notably a mere two
19 weeks ago, the Town, in partnership with Suffolk
20 County, acquired the New Hope Revival Church
21 property, a heavily-forested 12.5-acre parcel. And
22 some folks were at the press conference for that in
23 the headwaters of Yaphank Creek, which is a very
24 high-quality tributary to the River.

25

26 Moreover, the Town Board has
27 redirected \$2 million of existing funding for open
28 space purchases in the Carmans River Watershed, it
29 is currently developing in the upcoming capital

2 budget. Significant funding is committed for open
3 space parcels in the Carmans River Watershed.

4 I want to note the last thing
5 about open space is that the Town's Open Space and
6 Farmland Acquisition Advisory Committee supports
7 the Carmans River Plan, having overwhelmingly
8 approved a resolution in support of it at its the
9 July of 2013 meeting. A copy of the resolution
10 which Doctor Koppelman shared with the committee
11 will discuss, when he speaks about it in a -- in a
12 little while, is -- will be submitted tonight for
13 the -- for the hearing record.

14 Another key, a central
15 recommendation of the Plan has to do with water
16 quality. We recognize that a number of studies
17 have documented that water quality in the River has
18 declined. It has declined in some places a bit
19 more significantly than others. And we think that,
20 essential to that, we begin to count that decline
21 or try to stall our decline, and through time
22 actually try to restore water quality.

23 And the parameter that we're
24 most -- most significantly focusing on is -- is
25 nitrogen. And so what we put in the Plan is

1

2 actually a non -- a qualifiable non-degradation
3 goal of 1.27 milligrams per liter of total
4 nitrogen, in a one milligram liter of
5 nitrate-nitrogen, and a restoration goal, lower,
6 of .5 milligrams per liter of total nitrogen and
7 .35 milligrams of nitrate-nitrogen.

8

That is -- those are ambitious
9 goals. But we -- if I -- you know, some of you
10 know I'm a Green Bay Packers fan and I love Vince
11 Lombardi. And Vince Lombardi, when he first came
12 to Green Bay in 1959 after the Packers stunk for
13 about two decades, said that we're going to turn
14 things around. We're going to seek perfection.
15 We're not going to achieve perfection, we never
16 will. But along the way, we will achieve
17 excellence. And that's what we think this Plan
18 does.

19

Will we ever achieve that
20 restoration goal? It's not clear if we will. But
21 by developing a whole bunch of the strategies,
22 we'll be able to move in that direction and be able
23 to restore the ecological integrity of the -- of
24 the River.

25

And it's important to keep in mind

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2 that the character of the River, because it really
3 relates to some of these nitrogen issues. 95
4 percent of the River gets it's flow from
5 groundwater. That's different than a lot of other
6 rivers throughout the United States. Maybe we have
7 kind of a Long Island centric view, but -- and you
8 can keep that in mind.

9 So if we're going to protect water
10 quality in rivers and creeks on Long Island, we
11 have to deal with the fact that -- the groundwater
12 that is flowing into those rivers. Both from the
13 banks and typically upwelling from the sides, what
14 we call hyporheic zone of -- of a river.

15 Fifty-seven percent of the
16 nitrogen that's loading into the Carmans is coming
17 from the groundwater enriched -- water that's --
18 groundwater that's enriched -- excuse me -- from
19 nitrogen, from wastewater and fertilizer. So the
20 strategies that we will need to implement really
21 have to do with the addressing of those particular
22 uses.

23 What are some of the
24 recommendations that we have that relate to water
25 quality, and -- and -- and nitrogen and sanitary

1

2 systems? What we recommend in the Plan that the
3 Town Board consider the merits of establishing a
4 Watershed Protection Improvement District. This is
5 a special district that was recently enacted by the
6 New York State Legislature to allow local
7 governments to develop, fund and implement
8 comprehensive, yet, targeted strategies to protect
9 the Watershed.

10 And we recommend, again, in that
11 recommendation, that the Plan -- that sanitary
12 upgrades be the foremost priority of this -- of the
13 Watershed Protection Improvement District
14 activities.

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15 Alternatively, a more-focused
16 district which is also permitted in New York State
17 Town Law is the establishment of a wastewater
18 disposal district. It's a special district that
19 would have the staff that would help homeowners
20 treat and manage their onsite sanitary systems and
21 allow, through time, for those systems to be
22 operated.

23 And I'll talk more about it.

24 COUNCIL MEMBER KEPERT: John, I
25 just wanted you to, again, just -- just to state

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65

2 the difference between the Watershed Management
3 District and the Sanitary --

4 MR. TURNER: Sure.

5 COUNCIL MEMBER KEPERT: --
6 Management District.

7 MR. TURNER: Yes.

8 The Wastewater Disposal District
9 is a district that has a more-targeted focus. It
10 really just deals with onsite septic system
11 treatment and management. A Watershed Protection
12 Improvement District has a broader focus.

13 And so we just wanted to present
14 both recommendations to the Town Board. We'll have
15 more discussions about this. And if the Town Board
16 thinks this recommendation has merit beside working
17 with the Law Department, which of those vehicles
18 would be a best fit for the Carman.

19 COUNCIL MEMBER KEPERT: The
20 Watershed Protection District has a water flow --
21 say that again.

22 MR. TURNER: It -- it had -- it's
23 called a Watershed Protection Improvement District.
24 And what that District can do is fund things like
25 storm water, educational efforts.

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COUNCIL MEMBER KEPERT: I see.

MR. TURNER: It's a more broader reach.

COUNCIL MEMBER KEPERT: And so the sanitary is just dealing with sanitary systems?

MR. TURNER: That's correct; yes.

COUNCIL MEMBER KEPERT: Okay.

MR. TURNER: But again, we wanted to put both in for your consideration.

COUNCIL MEMBER KEPERT: That's fine.

MR. TURNER: Another --

SUPERVISOR ROMAINE: A sanitary condition would be very similar to what I suggested in the County Legislature -- although certain members of the Legislature voted against it by tabling it -- which would allow us to create nitrogen-sensitive zones, where we would ask any new construction or replacement of any septic systems to go with alternative systems, we would reduce nitrogen into the groundwater, such as the Nitrex or BESST or other systems that have been accepted by the Health Department.

But there were legislators that

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2 did table that legislation. It never came to
3 fruition.

4

MR. TURNER: These proposals are
5 very consistent with your thoughts on that,
6 Supervisor.

7

Another proposal in the -- the
8 Plan is to urge Suffolk County to enact a
9 prohibition on the feed of our water found in the
10 Suffolk County parks, most notably Southaven, with
11 the leadership of the Town Board here. You did
12 that several years ago with regard to Town parks
13 and facilities. We would make the recommendation
14 that Suffolk County should follow the -- for the
15 lead.

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16

There are a number of other
17 recommendations that really urge Suffolk County to
18 implement measures, too. And perhaps the most
19 significant one is, right now in the Suffolk County
20 Sanitary Code for low-flow, anywhere from zero up
21 to a thousand gallons a day, Suffolk County does
22 not allow for the use of alternative systems.

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23

We think that given the track
24 record of many other municipalities, other regions
25 throughout the United States, some fairly close to

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2 home here in Massachusetts and Rhode Island, the
3 New Jersey Pinelands, that there are proven
4 technologies that can be scaled down and used in
5 residential establishments -- or residential
6 settings I should say, that significantly reduce
7 the amount of nitrate-nitrogen that ends up in the
8 groundwater. And we want to strongly urge the
9 Suffolk County Department of Health Services and
10 the Legislature to move with real haste to allow
11 for those systems to be used.

N-5
SS

12 Lastly, in terms of water quality,
13 the Plan recommends that the Town assess the
14 feasibility of reusing treated wastewater emanating
15 from sewage treatment plants that are situated
16 within the Carmans River Watershed, for
17 landscaping, golf course irrigation.

18 If you travel around the United
19 States, you know, the southwest United States,
20 California, Florida, waste water is routinely used
21 for these purposes. And there are two major
22 benefits.

23 One is that you're not tapping
24 into your virginal water sources, which are --
25 they're in need for higher and social-related

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2 purposes. And you're using that water that has
3 nitrogen in it and applying that on, again,
4 irrigated areas on golf courses and so forth, where
5 their plants uptake the nitrogen, thereby reducing
6 the nitrogen loading to the underground water
7 system.

8

Another key component of dealing
9 with the sanitary nitrogen that -- that really came
10 out of the public informational hearings, and one
11 that I have to point out that both Kevin McAllister
12 from Peconic Baykeeper and Doug Swesty from Trout
13 Unlimited have been very, very helpful about is the
14 enhanced local authority of Town governments to be
15 able to require the use of these innovative
16 treatment systems, for intermediate flows between
17 1,000 gallons and 30,000 gallons a day, in use.

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18

That ability is based on a New
19 York State Court of Appeals decision that the
20 Department of Law has looked at and feels
21 comfortable with, as well as Section 228, the power
22 of three, the New York State Public Health Law,
23 which again allows for local municipalities to
24 require enhanced standards for protection of -- of
25 groundwater.

1
2 We've actually come up with a
3 proposal that is subject to discussion. It may be
4 tweaked. But what we're saying is based on this
5 information, a new recommendation will be included
6 in the Plan, which requires that all new sanitary
7 systems or upgrades to existing systems designed to
8 treat intermediate flows or greater -- again, 1,000
9 gallons a day or more -- situated within the
10 Carmans River of 100-year Watershed, utilize the
11 best available technology or back, for treatment of
12 sanitary waste. Specifically best available
13 technology shall mean the sanitary system meets the
14 following operating conditions:

15 Nitrogen shall not exceed three
16 parts per million as measured over a 12-month
17 rolling average;

18 At no point shall the monthly
19 average exceed three -- five parts per million;

20 And the said sanitary system shall
21 be warranted by a licensed professional engineer.

22 That again, Supervisor, is the
23 consistent with the proposal that you talked about
24 that was so, unfortunately, not acted upon by
25 the -- the Suffolk County Legislature.

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SUPERVISOR ROMAINE: No.

Unfortunately -- unfortunately, it was tabled by the Legislature.

Several legislators voted to table it on that Committee, which is unfortunate because that nitrogen-sensitive zone is critical to preserving our groundwater and our surface water.

MR. TURNER: Further, another amendment that came out of the public informational meetings is a recommendation to consider the East Yaphank community as a pilot program, where we, again, assist homeowners in providing a -- a -- incentivize a financing to them to upgrade their sanitary systems.

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A very successful program along this line, as you know, was recently, in a smaller scale, implemented in the Town of Southampton -- very successful. They've already exhausted the money.

And we think that that has a great deal of merit, and particularly targeted in the East Yaphank community, if you look at that. And there are number of hundreds of homes that are just east of Southaven County Park and west of William

2 Floyd Parkway. It's an area that is contributing a
3 fair amount of nitrogen to the River. At that
4 point, nitrogen goes up to, I think in some cases
5 four to six milligrams per liter. And it's been
6 coming from the dense residential development
7 there.

8 So this type of a pilot project,
9 but implementing it in a meaningful comprehensive
10 way could really make a difference in dampening
11 down nitrogen.

12 Quickly, just a few other thoughts
13 is that there's a whole recommendation dealing with
14 water quality -- water quality monitoring. And
15 that recognizes that, again, if you want to measure
16 success, you need to continue to monitor water
17 quality for a number of parameters.

18 Again, one of the most that I'm
19 most concerned about is nitrogen. But you want to
20 measure other typical I think parameters that ---
21 that hydrologists like to measure.

22 And there's also a -- a component
23 there, so I want to just briefly mention, that is
24 biological monitoring. A surrogate to water
25 quality monitoring is actually collecting samples

1
2 from those creatures that live in the bottom of the
3 River. They're called benthic macroinvertebrates.
4 And they can serve as excellent indicators of both
5 habitat and water quality.

6 Species such as stoneflies,
7 mayflies, and caddis flies, those species that are
8 very well known to trout fishermen are typically
9 indicators of very high water quality. While
10 midges, various worms and black flies would
11 indicate poor water quality.

12 So in addition to doing a direct
13 water quality monitoring, we recommend that there
14 be -- there be a -- a program to supplement that,
15 of a biological monitoring of the benthos, done
16 every couple of years, maybe every three to five
17 years. I mean that'll give you folks a snapshot
18 about what progress we're making with regard to the
19 diversity and the composition of the -- the natural
20 communities that are in the bottom the River.

21 Quickly, with an invasive species,
22 there's recommendations in the Plan. Not
23 surprisingly, like so much of Long Island, there
24 are invasive species challenges in the Carmans
25 River. With the Town Board's support, you're

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2 currently dealing with that, the Cabomba Fanwort
3 and variegated watermilfoil, in the upper and lower
4 lakes of the Carmans.

5

6 We think that -- that it makes
7 sense to come up with a overall comprehensive
8 invasive species program for the Carmans. I will
9 note the U.S. Fish and Wildlife Service has been
10 dealing the Phragmites or common reed -- which is
11 another invasive species at the Wertheim National
12 Wildlife Refuge -- with great success. So it is a
13 clear indication that a thoughtful programs and
14 well-thought-out strategies can't help but deal
15 with the invasive strategies.

16

17 Moving on very quickly to Fish
18 Barriers, I'll try not to go on too long about
19 this. But it's kind of -- I think one of the more
20 exciting aspects of the Plan. It is that the
21 Carmans River, like so many streams and -- and
22 rivers on Long Island, has been adversely effected
23 by roads, and railroads and other, you know, power
24 lines that kind of cut across it, breaking them
25 into segments that don't allow for anadromous fish,
that is fish that spawn in fresh water, but -- but
spend their lives developing out in salt water to

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2 be able to make it up to the upper reaches of these
3 systems.

4

We'd like to see the Carmans
5 River, through time, become once again stitched
6 together. One ecological thread, so that fish will
7 be able to enter the mouth of the River -- that --
8 those fish will be the alewives and the river
9 herring -- and be able to work their way as far
10 north as they possibly can, using the entire River
11 as a spawning habitat.

12

Why is that important? It's
13 important because those fish play a key role in the
14 food web, in the estuary food web. They are fed
15 upon by ospreys. You can hopefully you'll see
16 those ospreys that are distracting me, with the
17 slides that were up before --

18

(Laughter.)

19

MR. TURNER: -- those beautiful
20 slides. Bald Eagles, river otters, out in the
21 ocean where headlights move off, they're fed upon
22 by cod, and tuna, and bluefish and striped bass.
23 So they really are key components of our food chain
24 here on Long Island. And it's important that we
25 try to enhance their numbers.

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But what's the goal of our -- our Plan is to identify all the Fish Barriers, which we have done for the entire length of the River, and through time, from south to north, begin to mitigate those -- those impacts.

You've already done that with your good support at the existing ladder that's at the southern end of Hards Lake. And in fact, that's the one in the upper right, that photograph there (indicating).

Alewives are passing. That is a -- what they call Alaskan steep passage, a fish passage. There's a lot of different types. But alewives are moving up that and are now using Hard's Lake for supporting habitat. So that's clearly a success.

Very quickly, another recommendation is the restoration of the degraded properties. Unfortunately, due to elicit activities, such as dumping and ATV use, there are a number of properties, some of which are Town-owned and County-owned, that have been abused. And the Plan recognizes that and makes recommendations to try to restore those sites.

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Very quickly, two other things and we'll be -- be complete with the recommendations.

A key component of the Plan is the establishment of a Performance Committee. The Performance Committee will have the requirement to assist the Town in ensuring the newest important recommendation that is contained in the Plan, be implemented.

We think that that really provides an important vehicle. We have experts from Planning and Environmental organizations and agencies, local, State and Federal agencies, and representatives from civic and local, regional and national environmental organizations, coming together serving as a Performance Committee and assisting helping the Town move this Plan forward. We anticipate that that Committee would meet on a quarterly basis.

The last recommendation, as it kind of relates to the Performance Committee, is that another recommendation that came out of the public informational meeting -- I think it was the one in Setauket or more correctly maybe -- actually it was Yaphank -- that the -- the Plan should contain an implementation schedule, to provide a

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2 means by which the progress of implementation of
3 Plan recommendations could be measured.

4 We strongly agree with that idea
5 and we will include it in the Plan. And
6 presumably, the schedule will be most regularly
7 utilized by members of the previously-mentioned
8 Committee.

9 In conclusion, the Carmans River
10 Conversation and Management Plan --

11 CON. MEM. FIORE-ROSENFELD: John,
12 I'm sorry just to come in.

13 The Performance Committee --

14 MR. TURNER: Okay.

15 CON. MEM. FIORE-ROSENFELD: --
16 does it have an actual like number of people and --

17 MR. TURNER: No. It's -- it's --
18 it's just general.

19 That would be something that we'd
20 work with the Board to decide --

21 CON. MEM. FIORE-ROSENFELD: Got
22 you.

23 MR. TURNER: -- without going into
24 any complexion.

25 In conclusion, the Carmans River

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2 Conservation and Management Plan is a
3 comprehensive, multi-faceted, science-based
4 document that advances a suite of strategies to
5 proactively deal with both undeveloped and
6 developed components of the River's Watershed.
7 Recognizing the fundamental truth that if the Plan
8 is to successfully maintained and restore the
9 ecological integrity of the Carmans River, it needs
10 to deal with both components of its landscape.

11 Counselor Eaderesto opened up her
12 comments by talking about Henry David Thoreau. I'm
13 definitely a fan of Thoreau -- any of us.

14 I'd like to provide a quote by
15 John Muir, another person who I think has been
16 inspirational in dealing with the environment.

17 John Muir once said: Rivers flow
18 not past, but through us, tingling, vibrating,
19 exciting every cell and fiber in our bodies, making
20 them sing and glide.

21 As it relates to the Carmans
22 River, I think what Muir was saying is that the
23 Carmans River is much more than a physical and
24 biological entity, more than an ecosystem filled in
25 the carrying of species that is showing in the

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2 slide show tonight. It is a River that has a
3 special meaning, connection and relevance to each
4 and every resident of the Town, be they kayakers,
5 canoeists or boaters plotting the River's waters,
6 birdwatchers or hikers strolling along its shore,
7 crabbers and fishers securing dinner for the night,
8 or property owners whose homes and businesses are
9 adjacent to it and whose values are underpinned by
10 it.

11 Thus, what Muir is saying is that
12 the Carmans River has affected Town residents every
13 bit as much as those residents have affected the
14 River.

15 That's it.

16 SUPERVISOR ROMAIN: Thank you
17 very much.

18 And at this point we will move to
19 the cards, so we can hear from the public.

20 Ms. Chief Deputy Clerk.

21 CLERK LENT: Doctor Lee
22 Koppelman -- Doctor Koppelman;

23 Kevin Mc Donald;

24 Doug Swesty;

25 MaryAnn Johnston.

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(Stepping up.)

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DR. KOPPELMAN: Supervisor

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Romaine --

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CLERK LENT: Excuse me one moment.

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DR. KOPPELMAN: -- and members of

7

the Town Board --

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CLERK LENT: Excuse me, I need to

9

swear you in.

10

DR. KOPPELMAN: I'm sorry.

11

CLERK LENT: Please raise your

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right hand.

13

(MARYANN JOHNSTON, LEE KOPPELMAN,

14

KEVIN McDONALD and DOUG SWESTY were duly sworn.)

15

Continue Dr. Koppelman.

16

DR. KOPPELMAN: After that

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excellent comprehensive presentation of the members

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of the Planning Department, I won't dwell on any of

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the specifics, other than to say that the objective

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of the Carmans River Plan at its outset was to be

21

an environmental plan.

22

I was interested in hearing the

23

presentation and watching the flipping on the table

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of various studies, because it's a summation of my

25

50 years in government planning -- the 208 Study,

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2 the 205 Study, the Better Management Handbook
3 study, the first Town Comprehensive Plan. And now
4 in my career, the culmination is the Carmans River
5 Plan. From an environmental point of view, it is
6 absolutely an excellent piece of work.

7 The problem that I saw at the
8 beginning was that the Committee that was created
9 was specifically limited. This created some
10 initial problems.

11 The second part of the concern was
12 that there was a slight imbalance in the creation
13 of the Committee, which, in my opinion, should have
14 been primarily environmentalists and citizens of
15 environmental concern of the Town. The Liberty
16 Organization, I thought had an undue extra
17 participation in the study.

18 The Plan itself, from an
19 environmental point of view in my judgment, is an
20 excellent Plan. The problem that arose, however,
21 is that if we were going to have a major
22 environmental impact, the builders felt that there
23 had to be some benefit to them. And that
24 translated into their concern for about 34 specific
25 parcels that the development industry had an

2 interest in, where they wanted to have, in effect,
3 a guaranteed-before-the-fact approval of their
4 effort.

5 This contravened the general
6 operations of Town government in general and the
7 Brookhaven Town Board specifically, namely the
8 decision as to what is approved in terms of land
9 use development is one the major concerns of the
10 elected officials. And to allow anyone to bypass
11 that process, destroys the very fabric of local
12 home rule control.

13 Now, subsequent to that, members
14 of the Town Council and the current Supervisor
15 opened up the process to eliminate a lot of these
16 concerns. On the issue of the transfer of Pine
17 Barrens Credits, let me mention that in the 1993
18 original Pine Barren Act, the issue of transfer of
19 development rights was of great concern in general
20 to the property owners and to myself, particularly.

21 And I argued and had the full
22 support of the environmental people, specifically
23 Dick Amper, that in the Pine Barrens program
24 dealing with the core, that at least 75 percent be
25 by acquisition, not by the transfer of development

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2 density. And in fact, if you listen to the staff
3 presentation, most of those development rights did
4 not result in an increase in density.

5

6 Now, whether it's going to be 150
7 units or even 250 units in a Town of 300 square
8 miles with almost a half a million people, that's a
9 minimum, almost negligent. It's less than a
percentage of one percent.

10

11 However, in the preparation of
12 this Plan, I raised the same issue and was
13 supported by the environmental members on the Study
14 Committee. And as a result of the entire
15 Committee, that again the majority of these
16 development rights could be wiped out by
acquisition.

17

18 Now, the Farm and Open Space
19 Acquisition Advisory Committee -- of which your
20 superb counsel served as specific counsel to our
21 Committee, which has resulted in the expenditure of
22 \$130 million over the last decade for the
23 acquisition of properties. And in recent years
24 through the work of John Turner and the staff, the
25 pyramiding of funds from the State and particularly
of Suffolk County, gave the Town of Brookhaven the

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2 benefit of extra acquisition funds at no direct
3 cost to the taxpayers of the Town.

4

CLERK LENT: Thank you, Dr.
5 Koppelman. Your time is up.

6

MS. SELTZER: Excuse me. May I
7 give him my time?

8

CLERK LENT: No.

9

DR. KOPPELMAN: Someone suggested
10 that they would give a -- I still need a minute or
11 two.

12

MS. SELTZER: I would like to give
13 him my time to speak.

14

DR. KOPPELMAN: Thank you.

15

Is that acceptable, Mr.

16

Supervisor?

17

SUPERVISOR ROMAINE: Absolutely,
18 sir.

19

CLERK LENT: Add one minute to the
20 time.

21

DR. KOPPELMAN: The properties
22 that we recommended for preservation has already
23 been passed through the Open Space and Farmland
24 Acquisition Committee. And in terms of
25 acquisition, we had the same policy that most of

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2 that property should be by outright acquisition.

3 And this is something that as the economy improves,

4 there's no reason why additional funding will not

5 be available, State, County and even the Town.

6 And I think the Town Board, in

7 their wisdom, hopefully will quickly adopt this

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8 Plan, because it's the implementation that will

9 guarantee the protection of the River.

10 And I thank you for your patience.

11 And I thank whoever the citizen was.

12 SUPERVISOR ROMAIN: Reggie --

13 Reggie.

14 DR. KOPPELMAN: Oh, my old friend.

15 (Laughter.)

16 SUPERVISOR ROMAIN: Your old

17 friend.

18 Doctor, thank you again.

19 CLERK LENT: Mr. McDonald.

20 MR. McDONALD: Mr. Supervisor and

21 members of the Town Board, I'm Kevin Mc Donald. I

22 am here tonight on behalf of the Nature Conservancy

23 and the chapter on Long Island.

24 I, too, have had the pleasure --

25 although at times it wasn't always -- to serve

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(Laughter.)

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MR. McDONALD: -- the Committee to produce a Plan that fundamentally -- that is in agreement with what is presented to you tonight and the subject of the hearing.

I would identify the Plan as sort of two main trunks in my mind. One is, it's an aspirational plan about what the River should look like, and what should be done to -- to restore the River and protect the River.

It has two main outcomes. It's -- it's restoration and protection. The protection side is -- is actually a little easier.

The Plan recommends a 1,600-acre core be added to the Pine Barrens, which would fully support, and it recommends another 1,000 or so acres of land to be acquired going forward, based on a myriad of financing proposals that the Town has in part already addressed and still needs to work on. We support those.

On the strategies for restoration, I think that the most challenging aspect of this Plan is that this Town Board, at this moment in

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2 time, after a number of years of history of
3 resource planning on Long Island and in Suffolk
4 County, it's becoming clear as a major suburban
5 area of Long Island is maturing, that we didn't
6 always get things right. And we had to go back and
7 correct mistakes that we now know are our mistakes
8 and need to be corrected.

9

And they include the tremendous
10 load of nitrogen that's occurring in our
11 groundwater and our surface waters, and how that
12 has to be rectified. John Turner correctly
13 identified the 53 percent of the nitrogen entering
14 the Carmans River is from groundwater. Forty
15 percent of the nitrogen entering groundwater around
16 the Carmans River is from onsite septic systems.
17 And about 13 or 17 percent is from fertilizers.

18

Real measures that can reduce that
19 load will do a lot toward meeting the restoration
20 target that is recommended in the report.

21

We support the water quality
22 recommendation standards that are being offered.
23 We support the -- the various target measures to
24 reduce road runoff, to retrofit onsite septic
25 systems in favor of other technologies that still

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2 have to be developed and accepted in Suffolk
3 County, because they're all not yet.

4

We agree with the major premise
5 that all the parts of the Country are doing this
6 with greater effect than we are. It's time to
7 accelerate that. And we'll support all of those
8 measures. I worked with the Town Board at various
9 levels of government to try to help that become a
10 reality.

11

The Watershed Improvement District
12 was a bill that we worked on a few years ago, in
13 anticipation of the moment when the Town actually
14 would want to contemplate the notion of how to
15 finance replacement of existing onsite septic
16 systems that leaks too much nitrogen, and harm our
17 groundwater and our surface water.

18

So other measures like that would
19 need to be done. We'll be pleased to work with
20 you.

21

My last major comment will be that
22 our office will be submitting more formal comments
23 of a very technical nature, in support of the
24 testing protocol that you're recommending and
25 things like that.

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But it's sort of a macro point which I'll leave you with. And I know that most of you have been on the various Town Boards and in government for quite a few years, in one manner or another. And the hardest thing to do is to get something done in government.

And there are a million reasons to just leave everything the way it is. And those moments are ones where nothing ever changes and nothing gets better.

So to get some of the things done that are necessary require you to take a very small risk. And the only downside is the -- the nightmarish scenario that has been presented to you, that will arise from about 130 Pine Barrens Credits being created, most of which can be properly retired without any effect.

Development will happen in the Town of Brookhaven, whether or not the Pine Barrens Act ever existed. But now we have it. Development is still going to be happen in the Town of Brookhaven, not because of the 135 development rights, but because of actions that you and other Town Board members subsequent to today will make.

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So if -- a final point, we support the Plan. I want to compliment the Supervisor, and the Town Board members and your excellent staff, for cobbling together a consensus to go forward. And I wish you good luck going forward and getting this implemented.

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Thank you.
CLERK LENT: Thank you.
SUPERVISOR ROMAINE: Thank you.
CLERK LENT: Mr. Swesty.
MR. SWESTY: Good evening, ladies

and gentlemen of the Board.

My name is Doug Swesty. I'm a resident of East Setauket. I am the Long Island Watershed Director of the Sea Run Brook Trout Coalition, who is the organization that I am representing here tonight.

I'd like to speak in favor of many of the aspects of this Plan. It's certainly a much stronger plan environmentally, than the one that you were presented with a year and-a-half ago or so. It -- it does have recommendations that address many issues that were not addressed.

And they were critical issues that

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2 were not addressed in the previous Carmans River
3 Plan. We have a water quality standard that's a
4 scientifically defensible now.

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6 We have an accurate picture of
7 what the water quality in the River is -- a more
8 accurate picture, I should say, of what the water
9 quality level is in the River right now. We have a
10 restoration goal that John Turner spoke of, of
11 about 1.0 part per million of nitrate-nitrogen in
12 the River -- or I'm sorry, a non-degradation level
13 of 1.0 part per million of nitrate-nitrogen in the
14 River, and a restoration goal of 0.35 parts per
15 million nitrate-nitrogen.

15

16 That's scientifically defensible.
17 It's based on work that has been published in the
18 peer review literature that is out there now, that
19 was done by the New York State Department of
20 Environmental Conservation Bureau of Water
21 Monitoring out of Albany, including some of the
22 screenings they looked at were the Carmans River.

22

23 So there's a good scientific basis
24 for those goals. And I strongly hope that you will
25 implement those in some sort of code that the Town
will put forth, if this Plan or some version of it

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is accepted.

There is also a big step forward in the discussion of advanced septic systems here in the Town's Plan. It is a major stride forward to require, for intermediate flows or higher, a thousand gallons per day or higher, the use of advanced septic treatment systems that have already been approved by the Suffolk County Health Department.

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We're not talking about doing anything here that's going to effect the individual homeowner. We're not talking about anything that is not going to be approved by the County Health Department.

We're talking about technology such as Nitrex, for example, which was mentioned, that have been approved by the County Health Department and requiring their use anywhere within the 100-year watershed boundary.

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Why anywhere within the 100-year watershed boundary, well, just protecting things that are nearby the River are not sufficient. The classic example of that here on Long Island is the Connetquot River, which is protected from its mouth

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to the headwaters, public lands, yet has a much, much worse water quality than the Carmans River does, simply because the groundwater wasn't protected. So that's a major step forward.

But I do have concerns about this Plan. And the concerns are that it's being done. I mean I -- I can't speak to this with any expertise. I'm not an attorney. But a number of attorneys for organizations here, that are represented here tonight, have raised the concern that certain steps were not in compliance -- that were taken and developed for this Plan are not in compliance with the SEQRA process.

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And what I'm afraid of is whatever plan we may adopt, no matter how good it may be, may ultimately be legally challenged because certain things were not done the way they are required by law. That is, the t's weren't crossed and the i's weren't dotted.

And so I urge you to take these steps to do this carefully, so that whatever we do here, whatever you do survives and can work to protect this River.

Well, the final thing that we have

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2 to think about is there are steps that are
3 necessary to translate recommendations that are in
4 here, in this Plan, into actual Code. And we could
5 see you pass or accept this Plan as it is. And
6 it's a Plan that makes recommendations. You might
7 have to translate it into Code, via some sort of
8 resolutions.

9 And there's always an opportunity
10 there, those of us in the public are suspicious
11 that the details aren't going to be adhered to, as
12 we move from Plan to actual resolutions that
13 implement this as Code. And we would see changes
14 there that could create problems. And I hope that
15 we will try to avoid that.

16 And then finally, the Town has to
17 walk the walk, and not just talk the talk. At the
18 same time that we're talking about protecting the
19 Carmans River here tonight, the Town is actually
20 doing things that harm the Carmans River. That is,
21 they're violating the Clean Water Act, via
22 implementing the invasive species problem
23 remediation that's talked about in this Plan.

24 And we've unfortunately been put
25 into an adversarial position with the Town on that.

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2 And we hope that that would change in the future.

3 Thank you.

4 MS. EADERESTO: Supervisor, may I
5 just comment for the record that we are in full
6 compliance for SEQRA. And I am -- we have more
7 than complied with all the SEQRA provisions. And I
8 just wanted to state that for the record.

9 In addition, in consultation with
10 the Supervisor, when formulating my budget I plan
11 to bring John Turner back as a part-time employee.
12 And with the blessing of the Supervisor hopefully,
13 the Town Board, he will be in charge of
14 implementing this Plan.

15 This Plan is not to just sit on a
16 shelf and collect dust. And we will be bringing
17 forward -- you'll probably be sick of us by the end
18 of 2014 -- many resolutions, and Code changes and
19 changes of zone to implement the Plan.

20 SUPERVISOR ROMAINE: Thank you.

21 CLERK LENT: There is certainly a
22 record being taken by the stenographer tonight.

23 MS. EADERESTO: Thank you.

24 CLERK LENT: MaryAnn Johnston.

25 MS. JOHNSTON: MaryAnn Johnston.

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I'm the ABCO Land Use and Environment Chair.

I had hoped to be here tonight to endorse this Plan. Unfortunately, it's not quite ready for that.

However, we did anticipate that this process would not be filmed. So ABCO proudly -- before we entered into six public information meetings which also were not filmed and no record was kept except Mr. Sanzano's notes, which we had FOIled for and not received. However, we knew that this would happen, so we took steps to make sure that the public can see its government at work, as it is accustomed to doing.

And these surprise tactics are no surprise, because we have watched them happen over and over again. Furthermore, we have every intention of submitting written intense detailed comments on the Plan.

And I appreciate, Ms. Eaderesto, your constant assurances about SEQRA, because I am certain that any judge will be pleased with them.

At some point, we have to be really clear. This is a Plan that talks about a wish list. I like the wish list. I don't see

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anything in this Plan to make that wish list happen.

We talk about acquiring 135 credits. At about \$80,000 a pop at the going rate. And we have \$2 million. We have \$2 million.

We have 583 existing credits. I don't know how many we have in -- in Riverhead or Southampton that can be moved here. But I'm a developer. I know them well. I've been dealing with them for ten years, just like you.

If I get one for one in Riverhead, and one for one in Southampton, but I buy one here and get four free, where am I building? Not rocket science, not at all. I'm building here.

There is no analysis in this Plan or in its D.G.E.I.S. that addresses any of the required hard looks to make the analysis of the data on the ground. All the pictures in the world, all the lovely statements are wonderful.

N-16
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Where is the meat? There is no meat in this Plan. There is no meat in this D.G.E.I.S.. It falls flat in doing what we had hoped, really, really hoped would happen with this Plan. But it doesn't happen.

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We are still hopeful that you can move forward from the precipice of passing a Plan that will probably not do a whole lot of what we hoped for, and a whole lot more of what we didn't hope for.

But realistically, not filming it, sending the cameramen home, telling the newspapers that it starts at six or five, or it's Thursday July 30th is all subterfuge. And that is not worthy of anyone on this Board.

And anyone who needs my reminding time can have them, because I will put my comments in writing.

Thank you.

MS. EADERESTO: Mr. Supervisor, for the record, we are in the budget process now. And with your guidance, I have put forth a capital budget plan with millions of dollars in it and for open space spending.

SUPERVISOR ROMAIN: Above and beyond the two million.

MS. EADERESTO: Oh, the \$2 million we've already allocated in this year. This is going in the 2014 budget.

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And every year I've been here --
and I've been with the Town on and off since '84.
But since '96, this Board has always stepped up,
always funded open space. We've never had to say
no to a parcel, because there's always been money
available.

And with the leverage of the
State, and the County and sometimes the Federal
Government, we've purchased thousands of acres.
And I know that this commitment will go forward
with this Board.

SUPERVISOR ROMAINE: Thank you.
CLERK LENT: Next four speakers,
please:
Sharon Weismann;
Fran Hurley;
Dan Zaros -- Don Zaros, I'm sorry;
And William Schmitt.
(Stepping up.)

CLERK LENT: If you don't mind
raising your right hand.

(FRAN HURLEY, WILLIAM SCHMITT,
SHARON WEISMANN and DON ZAROS were duly sworn.)

CLERK LENT: Ms. Weismann, you can

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 speak first.

MS. WEISMANN: Good evening.

 My name is Sharon Weismann and I'm
 the president of the Yaphank Taxpayer and Civic
 Association.

 We came here tonight with many
 pages of concerns and comments. And after
 listening to the presentation that was done by your
 staff and Mr. Turner, we're really not going to go
 through all of those. We think that -- we had
 planned on reserving the right anyway, to submit
 everything in writing. He addressed some of our
 concerns and raised others. So that that's really
 significant at this point.

 I think the only thing I really
 want to point out is that we are ground zero. And
 for 50 years, we have fought to preserve the
 Carmans River and Upper and Lower Lake. Residents
 have given their land in which to make this happen,
 especially when it comes to the scenic and wild
 river issue.

The main --

MS. SELTZER: Excuse me.

MS. WEISMANN: -- components --

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MS. SELTZER: Could you speak in
the microphone so I can hear you. Thank you.

Thank you.

MS. WEISMANN: Is this better?

MR. SELTZER: Yes -- yes.

MS. WEISMANN: Many components of
what's taking place right now is effectively a
taking of property from land owners, from people
who have owned this property, you know, in their
families for 200-plus years. And it seems to be
somewhat of a disparaged treatment when we look at
all of these various development projects that are
truly surrounding Yaphank.

We are, you know, not getting the
answers to the questions as to why these particular
projects have been carved of this Plan.

N-18
LZ

I'm talking specifically about:

Enchanted Forest, which is located
1,300 feet from the surface waters of the Carmans
River;

I'm talking about the Meadows at
Yaphank, which is some 1,700 feet;

Silver Corporate Park, which is
1,400 feet.

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These are massive projects of regional significance. And how are they allowing these projects to move forward knowing going to preserve --

SUPERVISOR ROMAINÉ: This is a --

MS. WEISMANN: -- the Carmans River?

SUPERVISOR ROMAINÉ: -- public hearing. And in a public hearing members of this Board can ask questions and speak.

MS. WEISMANN: Uh-huh.

SUPERVISOR ROMAINÉ: I just would tell you I'm being told that Enchanted Forest is, in fact, in the core.

COUNCIL MEMBER KEPERT: Yeah.

SUPERVISOR ROMAINÉ: So if you've look at the map and maybe not recognized that --

MS. WEISMANN: It's in the core. Is it on the acquisition list?

COUNCIL MEMBER KEPERT: It's in the core.

MS. WEISMANN: No.

COUNCIL MEMBER KEPERT: Oh --

MS. WEISMANN: It was removed.

2 COUNCIL MEMBER KEPERT: -- oh --

3 MS. WEISMANN: It's not there.

4 COUNCIL MEMBER KEPERT: -- oh.

5 Silver Corporate Park, in the
6 original plan, was on the acquisition list and it's
7 been removed.

8 COUNCIL MEMBER KEPERT: That's
9 not -- that's not --

10 SUPERVISOR ROMAINE: Okay.

11 MS. WEISMANN: So again, these --

12 COUNCIL MEMBER KEPERT: But

13 that's --

14 SUPERVISOR ROMAINE: But that's a
15 fact --

16 MS. WEISMANN: -- are many of our
17 concerns, and we're --

18 SUPERVISOR ROMAINE: That's on --
19 that's on the two- to five-. We looked at
20 specifically in to the two- to five-year, to
21 include the two- to five-year travel zone.

22 MS. WEISMANN: Well, unless you've
23 changed it, since the --

24 SUPERVISOR ROMAINE: I would --

25 MS. WEISMANN: -- original

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2 study, --

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4 SUPERVISOR ROMAIN: -- suggest
you speak after --

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6 MS. WEISMANN: -- that would be
different.

7

8 SUPERVISOR ROMAIN: -- you --
after you've given your presentation, that you
9 speak with John Turner.

10

MS. WEISMANN: Uh-huh.

11

12 SUPERVISOR ROMAIN: And he could
probably fill you in a little bit about some of the
13 questions you raised.

14

15 MS. WEISMANN: I think as I've
said, that these are some of the major issues. If
16 there's been changes -- and obviously there has
17 been because we just found out that some of this
18 stuff tonight.

19

20 So we'll speak to John and we will
definitely be providing more information in writing
21 to you.

22

Thank you.

23

24 COUNCIL MEMBER KEPERT: And I
understand that concern. And I think that that was
25 a very good statement.

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I mean, obviously, no plan is perfect. This Plan is not perfect. I think many of us would like to acquire some of those parcels you've just mentioned and get them off of the development table.

But, you know, we have limited resources also. But if we can do that, we will certainly move to -- to acquire.

I know Enchanted Forest is on the list. I -- I don't think Silveri (phonetic) is, and that may be due to litigation.

However, again, nothing is perfect. But this is a step forward.

MS. WEISMANN: Thank you.

CLERK LENT: Ms. Hurley.

MS. HURLEY: My name is Fran Hurley. And I serve as the corresponding secretary of the Yaphank Taxpayers and Civic Association.

I was here prepared to complete the reading of the Yaphank Taxpayers and Civic Association's extensive statement. But due to the additional information brought forth tonight, we will wait to submit our comments in writing.

Thank you.

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MR. SCHMITT: Good evening,
everybody.

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CLERK LENT: Mr. Zaros.

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MR. SCHMITT: Mr. Schmitt.

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CLERK LENT: Mr. Schmitt.

7

Mr. Zaros is next.

8

MR. SCHMITT: Okay.

9

MR. ZAROS: My name is Don Zaros
and I'm from Port Jefferson Station.

11

And I see John Turner's here and I
appreciate his efforts.

13

And much of everything that is
said here is -- seems to be as well as can be
expected from people who are not perfect, and
they're trying to get everything done. But this
is -- this is not the major concern.

18

My major concern is that in order
for this Plan to pass, we had to change the
multi-family code. Now, the Code presents
something which will be here forever.

22

Hopefully, after the Plan is
approved with the pre-requisite of the multiple
family code, that you will change the Code again
back to something similar, that will keep the

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population down in our Town.

One other concern is the -- just north of the Carmans River Lakes, upper lakes are a series of lakes and mining of sand, Roanoke and further up. These were not put in any of the core of this Plan. And certainly they're digging deep enough to go into the magnified layer there.

N-21
LZ

They're, you know, maybe a couple or 200 feet down. And I think that's a serious thing for the core. But there seems to be no effort to include this in the Plan, which I'm assuming the core is part of the Plan.

Okay.

Thank you very much.

CLERK LENT: Okay.

Thank you.

Next four speakers.

MR. SCHMITT: Hi.

My name is William Schmitt.

CLERK LENT: I'm sorry, Mr. Schmitt. See, you tried to jump in there first and I completely blocked you.

MR. SCHMITT: I'm sorry.

(Laughter.)

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CLERK LENT: Sorry.

Go ahead.

MR. SCHMITT: I guess everybody has concerns about the Plan. Nobody wants to see the Carmans River more pristine than me. I think being a farmer and farming my whole life, we are preservationists. We -- we do the best we can.

My brother and I happen to own 50 acres that is just outside of the two to five contributing area. But if you look on the Plan that is randomly extended to Yaphank Avenue, which is right across from the police headquarters, it's a concern of mine.

I don't know where we stand. I don't know if my farm will be acquired or we'll be able to continue farming.

Will we have controlled nitrogen? And these are -- these are serious concerns for my family down in the future for my children, whether they want to continue to do this with this kind of thing hanging over their heads.

N-22
LZ

What's going to happen next year? I would like it addressed.

It's not a small piece. It's 50

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2 acres of land. And I'd like to know where we're
3 going and what's going to happen to it.

4 I appreciate your concern. Thank
5 you.

6 SUPERVISOR ROMAIN: We will make
7 sure that you get an answer for that.

8 And once you have the answer, if
9 you have additional concerns, please speak with me.
10 I pass your farm every day on the way to work. I
11 know exactly where it's located.

12 MR. SCHMITT: Thank you very much.

13 SUPERVISOR ROMAIN: And I know a
14 little bit about the farming community, having
15 represented most of the farms in Suffolk County
16 when I was in the Legislature.

17 Do we have someone that can speak
18 to Mr. Schmitt?

19 COUNCIL MEMBER KEPERT: Mr. -- I
20 just want to -- go ahead, Annette.

21 MS. EADERESTO: No.

22 I'm sorry.

23 COUNCIL MEMBER KEPERT: I -- I met
24 with you and your brother obviously and we had
25 looked at the location of your farm. And although

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2 it is outside the zero to two, it was placed in
3 that particular groundwater area because of the
4 non-existence of another road.

5 So we had met with Mr. Joseph Zano
6 (phonetic). And we are hoping to address that and
7 get the farm out of that particular area, since
8 it's not actually in the zero to two.

9 So we will -- we will certainly
10 work on that. And I think he's hoping it's zero to
11 two.

12 MS. EADERESTO: And the only
13 recommendation in the Plan -- and I know you follow
14 this, because I've worked with you before -- is
15 that you use best practices. That's the
16 recommendation for farmers.

17 MR. SCHMITT: We always do that.

18 MS. EADERESTO: I know you do,
19 John.

20 You did a beautiful job on that
21 other farm, too.

22 SUPERVISOR ROMAIN: Thank you
23 very much.

24 Would you call the next --

25 CLERK LENT: Yes.

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SUPERVISOR ROMAIN: -- speakers.

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CLERK LENT: Regina Seltzer;

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Claire Goad;

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Linda Petersen;

6

And Debra Felber.

7

(Stepping up.)

8

CLERK LENT: If you'll all just

9

please raise your hands.

10

(DEBRA FELBER, CLAIRE GOAD, LINDA

11

PETERSEN and REGINA SELTZER, were duly sworn.)

12

CLERK LENT: Thank you.

13

Ms. Seltzer, you can begin.

14

You are going to have four minutes on the clock,

15

given --

16

MS. SELTZER: That's correct.

17

Thank you.

18

I, first of all, would like to

19

thank the staff. Their presentation was excellent.

20

I thought I knew all about this Plan. But I've

21

really learned a lot today. So thank you for --

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for doing that.

23

I've lived here for a long time.

24

And I have to tell you that Brookhaven Town, if you

25

forget about the Sunrise Highway, is a really

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2 beautiful area. And some of the best areas that we
3 have are the areas that very few people know about.

4 And one of the great things about
5 the Carmans River is that it is not only beautiful
6 and environmentally sound, but it is also an
7 economic advantage to this Town to have a River
8 that is pure and clear. And it is something that
9 people come here to -- to see and to enjoy.

10 And so I'd like to thank you for
11 considering this new Plan, for making it possible.

12 And since I am an attorney, I
13 agree with Ms. Eaderesto, that you have done
14 everything completely, properly. All of the
15 procedures as far as SEQRA is concerned have been
16 met. And I hope you pass this.

17 Thank you.

18 MS. GOAD: Claire Goad.

19 The Carmans River is one of the
20 most pristine rivers on Long Island. And the
21 water -- and the friends of Wertheim agree that we
22 all need to work together to keep it that way. And
23 the Watershed Plan does that.

24 It's important that we keep the
25 science of the Carmans River Watershed Plan intact,

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2 in the way in which the Plan will be implemented.

3 It is also important that the wording of the Plan

4 does not allow for wiggle room that might let

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5 others dilute parts of the Plan later on. We hope

6 to see the nitrogen level lowered in the near

7 future.

8 At the same time they are -- that

9 we are working to protect Carmans River, we must

10 also protect Yaphank Creek and Little Neck Run

N-24
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11 which flow into the River. They are very

12 susceptible to road runoff and possibly the land

13 for the leaching pond.

14 Friends of Wertheim supports the

15 Watershed Plan to keep Carmans healthy. And we

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16 will be submitting more-detailed written comments.

17 Thank you.

18 SUPERVISOR ROMAIN: Thank you

19 very much.

20 MS. PETERSEN: Thank you,

21 Supervisor Romaine and Board members.

22 My name is Linda --

23 MS. EADERESTO: Linda, can you

24 speak into the microphone, please.

25 MS. PETERSEN: Sure.

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MS. EADERESTO: Thank you.

MS. PETERSEN: My name is Linda Petersen. I am vice-president of Garden Lane Associates. It's a group of residents who own 18-and-a-half acres on Mill Road in Yaphank.

It is surrounded by homes which are on lots of half-acre and acre size. The southern border adjoins industrial property, Silveri. A subdivision map has been filed on this property that has been effected by all of the variations of the Carmans River Plan.

The members of the Group who own the property were concerned that we are being singled out for two-acre zoning. The owners feel that it will effect its value once it is upzoned to two acres. And I'm just here to relay their concerns to all of you.

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LZ

I -- I have a second question and it's relative to the property on East Main Street in Yaphank, which is where I live. It stretches -- the property in question stretches from the Wucca (phonetic) property eastward. That would be Winterhaven Farms, which is a horse farm.

The entire site which stretches

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2 east of Wucca to the rest of East Main Street to
3 Manor Road, backs up to Warbler Woods, which you
4 all fought really hard to acquire for us.

5

It appears that the latest tenant
6 who has landed on this site and expanded, seems to
7 have expanded in to the north south Greenbelt,
8 which Brookhaven Town owns. We've had a multitude
9 of uses over there, which are highly detriment --
10 excuse me, I've had asthma all day -- highly
11 detrimental to the Carmans River.

12

What are the ultimate intentions
13 for the parcels known as 275A and 273 East Main
14 Street? Does the Town intend to upzone, acquire
15 and clean up these sites?

N-26
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16

It is obvious to everyone in
17 Yaphank that the current uses on those properties
18 are far more detrimental and dangerous to the
19 preservation of the Carmans River, than anything
20 the residential uses could possibly do to harm the
21 River.

22

It is located 900 foot north of
23 the River. It's in excess of 100 acres.

24

If you do not address the
25 consequences of these uses, it puts the integrity

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2 of the entire Plan in question.

3

4 There are so much going on in that
5 site that isn't legal. It's zoned A -- A-1
6 residential historic site property. And it's
7 turned into the most atrocious property, probably
8 in all of Brookhaven Town. And it's a huge area
9 that keeps expanding. It's almost up to Parr
10 Meadows.

11

12 If you pull up the Google map and
13 look at it from the air, you've got gorgeous
14 pictures of everything by the River. That's by the
15 River. And I'm telling you, it's unbelievable what
16 has managed to occur there over the last few years.

17

18 When Emily Pines was our Town
19 attorney, she worked to stop some of the illegal
20 uses which were occurring at that time. Since
21 then, it's become a nightmare for everyone who
22 lives down at that end of Town. Any help you can
23 give us or look into, as far as the site itself in
24 relationship to this Plan, would be deeply
25 appreciated by all those residents.

26

27 You try to clean up the River
28 every which way, you know, dredging, you're doing
29 all that. And on the other hand, this is getting a

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2 free pass. And it's far worse than anything in the
3 River or near the River.

4 Thank you.

5 SUPERVISOR ROMAIN: Thank you.

6 MS. PETERSEN: Thank you.

7 SUPERVISOR ROMAIN: I think

8 Council Member Kepert wants --

9 COUNCIL MEMBER KEPERT: Yeah.

10 Linda, we would like to invite you
11 in to sit down and talk about the uses there and
12 what we can do.

13 MS. PETERSEN: Thank you.

14 COUNCIL MEMBER KEPERT: Okay.

15 MS. PETERSEN: Yeah. Thanks.

16 I appreciate that.

17 CLERK LENT: Ms. Felber.

18 MS. FELBER: Good evening.

19 Excuse me.

20 I'm -- I'm here tonight to speak
21 for ABCO.

22 ABCO has asked the Town Council to
23 bring community-based planning and transparency to
24 the Town and our communities. I would like to
25 thank the members of the Town that have worked with

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2 ABCO to reintroduce the Carmans River Plan to the
3 Civic communities with six meetings, one in each
4 district -- council district.

5

As we appreciate the coordinating
6 of -- of the two agencies, we felt that the entire
7 Plan was not released until the fifth meeting,
8 which is disheartening to ABCO and its members.

9

We have been working for
10 transparency in the Town and not just for this
11 project, but for all projects that come before us.
12 The -- excuse me -- our Town has -- no, I'm sorry.

13

This Plan is not different than
14 any -- than the others that have come before us in
15 the past.

16

I also wanted to add that the ABCO
17 cannot allow the Town to take the tape that is
18 owned by ABCO. We paid for the equipment. We are
19 paying Mr. Madigan tonight, to tape this meeting.
20 The meeting is taped for our purposes and our
21 community civic's purposes.

22

We -- excuse me. We will not be
23 allowing the tape to be distributed as a Town
24 product. It was not our responsibility, but your's
25 as a municipality, to provide all residents access

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2 to your meetings.

3

This was a published meeting.

4

It's on your website. It was posted. So it was

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your responsibility to make sure that if you would

6

like to have had it distributed to the communities

7

and the residents, then you should have taped it.

8

ABCO is a board-run organization.

9

And that would have to be something that would go

10

before our board.

11

I'd also would like to mention the

12

fact that you had a meeting that was held last

13

week, that was posted on your website from five

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o'clock to nine o'clock. But it ended at 6:15. So

15

you are not accommodating the community resident,

16

when people come to your meeting and it -- it has

17

ended early.

18

Your meetings aren't designed for

19

you. They're designed for us, the resident. They

20

are to give us information, to keep us involved,

21

and engaged and informed.

22

So when you make meetings that end

23

before postings, or if you make meetings at 11

24

o'clock, or one o'clock or five o'clock, you're

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really not accommodating the average resident that

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2 works.

3

4 We understand this is your work
5 and we are part of the public. But your meetings
6 are for the public. So I would ask you to please
7 take in consideration that you are here to give us
8 information, and we are here to listen and learn.

8

9 And if you would like the
10 community to be engaged, as I keep hearing that you
11 would like, and you would like us to be part of the
12 process, then I would ask you, respectfully, to
13 then do that in a way that makes it possible for
14 the community to have that opportunity.

14

15 Thank you.

15

16 SUPERVISOR ROMAIN: Thank you for
17 participating in the process.

17

18 CLERK LENT: Stephanie Regan and
19 Vivian Viloria-Fisher. Those are the only two
20 cards.

20

21 (Stepping up.)

21

22 CLERK LENT: Is there anyone else
23 that would like to direct comment --

23

24 (Indicating.)

24

25 CLERK LENT: I understand that
26 Mr. -- Mr. Ferchman (phonetic) has asked us to hold

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2 his card, so I'm not card number 14.

3

You are?

4

A VOICE: I was hoping --

5

6 on speaking, you need to go to the Clerk's side and
7 fill out a card.

8

Ms. Regan, can you begin, please.

9

10 Oh, I'm sorry. I didn't swear you
in first.

11

Please raise your right hand.

12

13 (STEPHANIE REGAN and VIVIAN
VILORIA-FISHER, were duly sworn.)

14

CLERK LENT: Thank you.

15

Ms. Regan can begin.

16

MS. REGAN: Hi.

17

18 I'm Stephanie Regan. And I'm just
here as a resident of Brookhaven. I'm from South
19 Setauket.

20

COUNCIL MEMBER KEPERT: Stephanie,
21 just talk a little bit closer to the mic..

22

MS. REGAN: Okay. Great.

23

I'm sorry.

24

(Laughter.)

25

MS. REGAN: And as an

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2 environmentalist who is deeply concerned about the
3 drinking water, I -- I want to express my strong
4 support with the passage of the Carmans River
5 Conservation and Management Plan.

6 If the 20 or so recommendations
7 detailed in the Plan are fully implemented, I
8 believe the ecology of the Carmans River can be
9 protected and enhanced. The River's water quality
10 will improve and many hundreds of species of plants
11 and animals found along the River or within its
12 Watershed would prosper.

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13 This Plan will also benefit the
14 Town residents in many ways. I urge the Town Board
15 to adopt this Plan.

16 And can I just say, it would be
17 great if people would not talk while -- while other
18 people are talking. They have been talking the
19 whole entire time.

20 (Laughter.)

21 MS. REGAN: So rude. They are so
22 rude.

23 SUPERVISOR ROMAIN: Those who
24 talk when others are up here, maybe you're not
25 interested in the public comment. But I am

1

2 interested in listening to your comments.

3

MS. REGAN: But it's rude.

4

5 I'm -- I'm trying to listen to
6 everybody. And I can't listen, when I hear people
7 talking in the background. I don't understand why
8 they don't just leave the room and talk amongst
9 themselves.

9

Sorry. I just wanted to say that.

10

CLERK LENT: Thank you for your
11 comments.

12

MS. REGAN: Thank you.

13

(Laughter.)

14

MS. REGAN: Thank you.

15

CLERK LENT: Thank you.

16

Vivian Viloria-Fisher from
17 Setauket.

18

MS. VILORIA-FISHER: I agree with
19 Regina Seltzer. There is a great deal that I
20 learned this evening. It was a very good
21 presentation.

22

And I would like to commend the
23 staff from the Planning Department for the
24 presentations around Brookhaven Town. They've
25 answered questions and spent a great deal of time

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speaking with the constituents.

The Plan's clear purpose is laudable and it's critical, in order to protect the sustainability of Brookhaven Town and therefore Suffolk County. We -- we have to keep the pristine quality of our waterways. We depend on our water. We have an aquifer, which provides all of our drinking water and all of our sustainability.

My comments have more to do with what I didn't hear, than what I've heard. I went through the Plan several times. And I was hoping that I could ask questions directly of -- of the presenters. Is -- is that possible or later on?

MS. EADERESTO: You can ask questions --

SUPERVISOR ROMAINE: You can certainly do that after you make your statement. But we're interested in listening to your statements.

MS. VILORIA-FISHER: Okay.

Thank you.

The purpose is very clear. The purpose is very commendable. But we need to look at the process and the implementation of that

1

2 process, in order to effect the type of changes
3 that we want and to effect the -- the outcome and
4 the goals that we all agree with.

5

I -- I was concerned when I
6 heard several times, recommendations being made to
7 the County regarding water quality protection.

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8 Where what I would have preferred to hear was ways
9 in which, during these times of very few resources,
10 how we could partner with the various levels of
11 government in order to reach our goals.

12

We've been very successful in
13 doing this in the past. We have partnered to
14 protect land. We've pooled our money, the County,
15 and -- and the Town, sometimes the State, rarely
16 the Fed., to acquire the properties that we need to
17 save in order to protect our quality of life and
18 certainly our health.

19

SUPERVISOR ROMAIN: Not to
20 interrupt you.

21

MS. VILORIA-FISHER: Yes.

22

SUPERVISOR ROMAIN: But the Town
23 is constantly partnering with the County.

24

In fact, just last week we bought
25 12-plus acres for the headwaters of the Yaphank

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2 Creek. In fact --

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COUNCIL MEMBER KEPERT: Yes.

4

5 with me when we announced that.

6

MS. VILORIA-FISHER: That's
7 precisely to my point, that in the land acquisition
8 area, we have done a great deal together through
9 the years as the chair of the Environmental, as you
10 know, for 13 years.

11

But I've spoke --

12

SUPERVISOR ROMAIN: We've also
13 talked constantly with the County on shared
14 services.

15

MS. VILORIA-FISHER: Okay. I just
16 want to keep my time, Mr. Supervisor.

17

SUPERVISOR ROMAIN: No -- no --
18 no, I'm sorry.

19

It won't effect your time.

20

MS. VILORIA-FISHER: Okay.

21

SUPERVISOR ROMAIN: We're
22 involved with multiple talks with the County on
23 shared services.

24

MS. VILORIA-FISHER: Right.

25

But I didn't ask the question. I

1

2 was -- let me just finish my statement. I hadn't
3 asked you a question.

4

Thank you.

5

6 I'm looking at other
7 recommendations and other actions that we've taken
8 in the County, that I'd like to see implemented and
9 codified within this Plan.

10

11 For example, I worked with Mr. --
12 with Kevin Mc Donald on --with the Nature
13 Conservancy on something called the Homestead
14 Assist Act -- or the Homestead Assist Program,
15 where we did a very robust educational program with
16 homeowners on how to lower their nitrogen or their
17 fertilizer use, and to make better use of watering
18 methods, so that they weren't creating and
19 introducing offenses to our storm water and -- and
20 into our -- and into our surface and groundwater.

21

22 I would like to see that type of
23 program implemented as part of this Plan -- how to
24 educate the public, so that those areas in the
25 compatible growth area to especially those
26 residents, should be educated on how to protect the
27 waterway. Because it's all that great
28 fertilizer -- fertilizer use on lawns, those green

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2 golf course lawns that we have, whenever it rains
3 that -- those fertilizers are being washed into our
4 storm water system.

5

6 We also, and Mr. Supervisor, you
7 served with me on the Soil and Water Conservation
8 District. There are many programs within that
9 district that we should all be taking advantage of,
10 the Town, the County and -- and the -- the
11 Counties, and -- and all of the different
12 municipalities.

12

13 Mr. Schmitt spoke about
14 agriculture. There is a voluntary agricultural
15 program where we've worked with Cornell Cooperative
16 Extension to lower the use of fertilizer and
17 pesticides on farmland. So I know my time is up.

17

18 MS. JOHNSTON: I cede my one
19 minute and-a-half to Ms. Viloría-Fisher.

19

20 MS. VILORIA-FISHER: Okay.

20

21 Thank you.

21

22 I don't really -- that's basically
23 what I wanted to say.

23

24 I want to see a -- a true
25 partnership. And I -- I would like to see it
26 codified very specifically within this Plan,

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2 because there have been a number of initiatives on
3 the County level. I know the Town has done a great
4 deal. But let's work together, okay, we can
5 stretch our resources.

6 CLERK LENT: The next --

7 SUPERVISOR ROMAIN: I thank you
8 for your comments and thank you for your support of
9 the Plan.

10 CON. MEM. FIORE-ROSENFELD: I just
11 want to -- wait, I just want to ask one question.

12 You said that you wanted to
13 question a couple of the presenters before. Were
14 there a particular question or two that maybe we
15 could redirect after you step down, and we could
16 redirect upon your behalf?

17 MS. VILORIA-FISHER: No.

18 It was specifically in the area I
19 think that I -- I believe Joe talked about the
20 compatible growth area and the fertilizer
21 reduction --

22 CON. MEM. FIORE-ROSENFELD:

23 Uh-huh.

24 MS. VILORIA-FISHER: -- beyond
25 those two acres properties.

1
2 And I wanted to know
3 specifically -- because I've looked through the
4 Plan, and I've read through it. And I couldn't
5 find specific recommendations for those homeowners,
6 on how they would -- how they would effect that
7 type of reduction. So this is why I'm suggesting
8 that we look at the Homestead Assist Program that
9 the Nature Conservancy had brought to me when I was
10 a legislator.

11 CON. MEM. FIORE-ROSENFELD: Okay.
12 Great.

13 MS. VILORIA-FISHER: Okay.

14 CON. MEM. FIORE-ROSENFELD: Thank
15 you.

16 MS. VILORIA-FISHER: And thanks
17 for the question.

18 CLERK LENT: Next four speakers:
19 Richard Amper;
20 Neil Pollack;
21 Cynthia Barnes;
22 And Don Seubert.

23 (Stepping up.)

24 CLERK LENT: And if you'll just
25 raise your right hand.

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(RICHARD AMPER, CYNTHIA BARNES,
NEIL POLLACK and DON SEUBERT, were duly sworn.)

4

CLERK LENT: Thank you.

5

Mr. Amper, you can begin.

6

MR. AMPER: I'm feeling old.

7

(Laughter.)

8

MR. AMPER: When the Pine Barrens
Act was set down twenty years ago, there were
projections of anywhere from between 5,000 and
10,000 houses that could be built, because we had
to protect a total of 12,000 acres.

13

In those twenty years we have not
built fifty houses. And yet, there are those who
continue to insist that even though we're only
trying to preserve 540 core area parcels and not
12,000, that somehow or another there's going to be
this -- this rush of -- of --

19

As I have gone through all of
these meetings, and all of the -- the Civic
meetings and the public meetings, I've been very
much impressed with the information that the --
that the staff has come forward with. And I think
it's very, very important. And I think that is
part of your job under SEQRA is to get you the best

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2 information possible.

3

4 And I would say that with respect
5 to the history where we are seeing 70 percent of
6 the credits in the Pine Barrens used for
7 sanitary -- and this is not between whether it's a
8 County program or a Town program -- what business
9 people want to pay money for are these credits.

10 And those credits are principally used for sanitary
11 purposes.

12 And I would suggest to -- to Mr.
13 Fiore-Rosenfeld that history may not guarantee the
14 future, but it certainly informs it. And that's
15 the best -- I think it's even required by SEQRA
16 that you look at the best information that's
17 available and use it.

18 And I would suggest that anything
19 other than that is really just speculation. This
20 Town Board has approved only 13 percent of the
21 multi-family projects that has come before it.
22 Yes, they have the capacity do it, but you the
23 capacity to -- to deny them.

24 And to assume that the same people
25 that are considering adopting this Plan are going
26 to overrun the Town with multi-family housing on

1

2 the reason of 135 credits is just unsupportable.

3

4 The other notion that suddenly
5 there is going to be a change in the number of
6 people who want to use these credits for sanitary
7 purposes is without any merit whatever.

7

8 In fact, the industrial and
9 commercial sector of the economy is recovering
10 faster than its residential component. So we're
11 likely to see an increased percentage being issued
12 for sanitary credits. There is just not a shred of
13 evidence that suggests the otherwise.

13

14 The reason that I raise all of
15 this is that what I've witnessed is sad, but it's
16 understandable. Most of what the arguments that
17 I've heard at these meetings have been, have had to
18 do with development and not preservation. And
19 that's not what's before you.

19

20 You're being asked to preserve a
21 River. And anybody can certainly speculate that if
22 you do this project in a certain way, it may
23 produce a certain number of homes. I don't think
24 it can possibly compete with the -- the practice of
25 having preserved 10,000 acres with only fifty
houses developed. But maybe somebody can speculate

2 that, if they're just being perverse, if they are
3 just being problematic, if they're ignoring twenty
4 years of history.

5 But it's inescapable that if we
6 don't do the Plan, we're almost certain to see a
7 thousand homes built in that corridor.

8 The public and I are so frustrated
9 with the long history of overdevelopment in this
10 Town, that we can't even find out a way to preserve
11 when it's put in front of us. That's how
12 frustrating this is to people. I understand where
13 the frustration came from.

14 But it's reached an incredible
15 perverseness when we have an opportunity to
16 preserve a River, we have an opportunity to prevent
17 development in the Watershed of the most pristine
18 River, and there are those who suggest that we
19 shouldn't do it because maybe, just maybe --
20 without any look back in history, without any
21 analysis of where we are, or what is going to
22 happen next -- that somehow or other we shouldn't
23 do it because it's going to over develop the Town.

24 It's the absence of preservation
25 that has overdeveloped the Town. It's the focus on

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development that has dominated the agenda for far too long.

Fortunately, the Civic community, the environmental community will stay in this discussion. We will provide comments. We will advocate as others have suggested tonight, additional parcels that should be, as Council Member Kepert said, made part of the preservation effort.

This Plan does not limit what we can do. It provides a minimum. We are going to start doing that, if you approve it.

And to focus instead on what probably can't and is not intended to happen is just perverse and preposterous. We are closer than ever before for doing real -- to doing real preservation and preventing development of the sort that all of us think has been pervasive for too long.

Your job is to decide about preserving the River. Let's focus on that. We'll get back to the development argument -- argument down the road.

CLERK LENT: Thank you -- thank

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you, Mr. Amper.

Mr. Pollack.

MR. POLLACK: Yes, thank you.

I've owned and operated a -- a business that actually borders the Lower Lake in Yaphank for the past 45 years. And over those 45 years, we have had to naturally expand and do some building and things like that, in order to keep up with competition, which is normal for any business.

It's 24 acres. Part of the property is -- is probably over a third of a mile from the River, because it's a very long and narrow property.

So my question is as a businessman who definitely wants to stay in business after 45 years, what would happen -- what will happen to people who are in business, who need to perhaps build something, or expand in some manner, or some way, shape or form? Who -- who makes that decision and -- and who -- who do I see?

End of comment.

MS. EADERESTO: I don't know exactly where your property is located, if it's in the core or not? Joe, do you know?

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MR. SANZANO: (Nodding head no.)

MS. EADERESTO: No, we don't know.

But if it were to be in the core, then you would seek a hardship exemption, if necessary, from the Pine Barrens, if it's a development of what you want to do.

Your existing business would go on. Nothing in here will stop your existing business and what you have built there already.

If you're not in the core, then whatever code we enact and whatever districts we may create, you would follow the rules that Town permits --

MR. POLLACK: Well, I want to --

MS. EADERESTO: -- if you wanted to develop, but not if you want to just continue what you're doing. You're a non-conforming, preexisting use.

MR. POLLACK: I'm -- I'm only going by what I saw in Newsday, which looks like -- I'm going with it. But of course -- of course -- Newsday said this meeting starts at five. So there you go --

MS. EADERESTO: Right.

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2

MR. POLLACK: -- with Newsday.

3

(Laughter.)

4

5

MS. EADERESTO: Well, you can
definitely check with staff and give them your
exact location.

6

7

MR. POLLACK: Okay.

8

9

MS. EADERESTO: And they'll be
able to tell you that tonight.

10

COUNCIL MEMBER KEPERT: Yeah.

11

12

MS. EADERESTO: Joe Sanzano, right
there (indicating), will be --

13

14

COUNCIL MEMBER KEPERT: Joe will
respond then; right.

15

16

MS. EADERESTO: He'll be happy to
give you that.

17

MR. POLLACK: Great.

18

MS. EADERESTO: Thank you.

19

MR. POLLACK: Thank you.

20

CLERK LENT: Ms. Barnes.

21

MS. BARNES: Hi.

22

My name is Cynthia Barnes.

23

24

And I am president of the Board of
Trustees of the Three Village Community Trust,
which is a land trust and historic preservation

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2 organization. And I was chair of the Hamlet Study,
3 which we did in '96 with Lee Koppelman. And also
4 the trust land at present --

5 MS. EADERESTO: Cynthia, can you
6 speak closer to the mic. or --

7 MS. BARNES: Okay; sorry.

8 MS. EADERESTO: -- pull it closer
9 to you.

10 Thank you.

11 MS. BARNES: Also, the trust
12 sponsored the Three Village Conservation Strategies
13 2030, which was our contribution to the Town of
14 Brookhaven's current Comprehensive Plan, which I
15 guess has still not yet been published. However,
16 our's was published in 2010.

17 And it's a conservation-first
18 plan, where we've decided that's where you start
19 with planning, is planning where not to build. So
20 I am really in favor of this Carmans River Plan.

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21 And thank God that we got rid
22 of -- I mean somehow or other dumped Libby, if I
23 could say that. I believe the compilation of
24 history was excellent. And I think that was an
25 accurate picture of where we were going before and

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how we got tripped up.

And 125 acres I think of that particular parcels were in that Setauket area, and were contrary to the Hamlet Study's recommendations of that previous Plan. So I was opposing that, but I am in favor of this.

I just have one little comment. I keep having said this all the time. I am very much in favor of community-based planning. I know all of you -- many of you are strongly in favor of community-based planning. And any development rights that get generated, if there's sending zones, that's -- that's done. And that should be easy.

But the receiving areas, wherever we have a receiving area, it should be consistent with a community-based planning process. And so I think that that's really where I would like to see your recommendation, that the Plan should strongly recommend that any -- any community where they are going to be receiving, you know, one of those credits, it should be part and be consistent of their Plan within the community-based program -- on community-based plan within the system, the

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planning process.

And I'm sure that the civics would be happy to participate. And in fact, the Three Village Civic and Trust is sort of initiating a community education process toward that end.

Thank you.

CLERK LENT: Thank you.

Mr. Seubert.

MR. SEUBERT: Good evening.

There is -- we are at the turning point on Long Island. And I know, sure you all know that, and our environment is and our communities are. And there's probably nothing like this on the Long Island, the Carmans; okay.

It's a remnant of what Long Island used to be; okay. But the point is we don't want the rest of the Town to be just remnants be; okay.

So we need to move ahead and we need to consider there is, you know, they say all things, all rivers merge into one. All -- it all goes into our Bay, our Sound.

It's not just one River. There are other rivers going into Long Island Sound and Great South Bay. And we've got to be fastidious

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2 and make sure that we don't really kill the Bay,
3 okay, we don't kill the Bay and we don't kill the
4 Sound.

5 And I think it's time. And I
6 would just say in the past that the dollars that
7 are -- they talked about being raised at one time,
8 that should be equally distributed to that same
9 law, that goal being to save the Sound and the Bay.

10 Also, I don't think the
11 Watershed -- I -- the Watershed is full enough. I
12 think that needs to be studied. And the -- and the
13 hydrology of it defies reason at times; okay.

14 You go up on the north side of the
15 is Service Road, and it's all going straight down
16 into the -- I think it's at 66, from almost the --
17 from the Hagerman Avenue straight down into the
18 River; okay. And that's not included.

19 So I -- and I say that I haven't
20 read the latest July version, so I don't know if
21 the July version has any other corrections to it.

22 The multi-family, you know, that
23 -- that -- let's be honest, that's tied to it. But
24 we deal -- we can't afford more people. Our
25 environment can't. You in the public can't. It's

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not that that type of housing is, you know,
appropriate.

But it -- we -- we can't afford
the density. I -- I will try to look through it.
We don't want to, you know, the -- the hundred-year
watershed -- the Guanas (phonetic) Canal I think
was probably made in less than a hundred years --
it took to what it did to that. And we would
not -- I don't think anyone up there wants to see
that.

I think we all should -- we all
realize we're at that tipping point. There's too
many people here, too many costs involved and
environmental cost as well. So please, give us the
time.

And I understand, Mr. Romaine,
you're going to give us the time to radically --
your one major thing. If the people put
comments -- if -- if the people put comments that
we get -- if the people put comments, they get a
response to their comment, okay, that they see what
there is -- what the answer is, why they've decided
to do it or not to do it; okay.

Thank you very much.

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CLERK LENT: Thank you, Mr.
Seubert.

SUPERVISOR ROMAIN: Thank you
very much. And this thanks the speakers tonight.

I'm going to make a motion to
close this public hearing, but to keep written
comments open 'til August 21st.

CON. MEM. FIORE-ROSENFELD: Yes.

Mr. Supervisor, I just -- I
just -- I just have one question which I was hoping
that Joe might just try to -- it was that point
that former Legislator Viloria-Fisher had made
regarding recommendations regarding fertilizer
nitrate reduction on two-acre properties or less.

I mean there didn't seem to be
specific recommendations. Are we likely to see
them going forward and fleshing that out a little?

MR. SANZANO: I think what the --
perhaps what you're speaking to is either the --
the -- the two-acre zoning as it relates to nitrate
loading. That is a recommendation found in the
both 205J Study and 208 Study, that we have
commonly used for the purposes of establishing the
two-acre zoning, which sets down the 2.5 milligrams

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per liter of nitrate, based on an overall density.

CON. MEM. FIORE-ROSENFELD: Got
you.

MR. SANZANO: The other thing that
I might think may be a little confusing was, is
that the compatible growth area of the Pine
Barrens, for the -- the standards required, are --
are limited for fertilizer-dependent vegetation.
So that's already standard in the compatible growth
area of the Pine Barrens.

CON. MEM. FIORE-ROSENFELD: Okay.
Thank you.
Hopefully, that clarifies it.

SUPERVISOR ROMAINE: I have a
motion to close the public hearing, but to leave
written comments open 'til August 21st.

Is there a second?
COUNCIL MEMBER KEPERT: Second.
SUPERVISOR ROMAINE: There is a
second.

All those in favor?
(Chorus of "ayes.")
SUPERVISOR ROMAINE: Opposed?
(No response.)

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SUPERVISOR ROMAINÉ: Can we make a
motion to adjourn?

COUNCIL MEMBER KEPERT: So moved.

COUNCIL MEMBER MAZZEI: Second.

SUPERVISOR ROMAINÉ: All in favor?

(Chorus of "ayes.")

SUPERVISOR ROMAINÉ: Thank you
very much.

(Time Noted: 8:28 p.m.)

C E R T I F I C A T I O N

I, STEPHANIE J. VALDER, do hereby
certify that the within transcript is
a true, accurate and complete transcript of
the proceedings which took place in the above
matter.

STEPHANIE J. VALDER

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APPENDIX O: Pine Barrens Credit Program

**Town of Brookhaven
Pine Barrens Credit Program**

February 2012,
3,757 parcels in the Core, with land area totaling 30,119.8 acres.

February 2013,
2,305 parcels were in public ownership, with land area totaling 27,671.3 acres.
1,452 parcels were in private ownership, with land area totaling 2,448.4 acres.

June, 2013,
721.8 acres of property protected by the credit program easements
The amount was 467.06 PBCs.

July, 2013,
251.27 Pine Barrens Credit Certificates redeemed.

July, 2013,
Subtracting 251.27 from 467.06 leaves the number of unredeemed credits.

215.79 Pine Barrens Credits unredeemed.

215.79 unredeemed credits (having certificates)

+

362.84 credits available (no certificates)

=

578.63 credits to be absorbed

The residential Overlay District (ROD) sites, which are as-of-right pursuant to certain parameters, are A Residential 1 and A Residential 2 sites outside of the Core Preservation Area. As of November 2012, the breakdown of availability as receiving parcels is as follows:

A-1 Zone	225 parcels	2,537 acres	553 credits
A-2 Zone	41 parcels	641 acres	<u>70 credits</u>
	Credits that can be received		623

APPENDIX P: Marilyn J. Jordan Ph.D., Senior Conservation Scientist for The Nature Conservancy

MEMORANDUM
Nitrogen standards for the Carmans River
January 17, 2011

TO: Carmans River Study Group
Dr. Lee Koppleman Chair

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I respectfully request that this memo prepared on January 14, 2011 replace the three previous memos that I submitted on December 3, 15, and 17, 2010. Concerns expressed by Mr. J. Kassner at the Study Group meeting on December 29, 2010 have been addressed in this new submission. Specifically, I have included my analysis of total N and nitrate-N water quality data collected from 1966–1997 that was not included in prior memos. Data on water quality for Upper and Lower Lakes are also now included. References to mean and median values in the literature are more clearly noted, and my use of these statistics is consistent. In addition I have clarified and better supported some of my statements and recommendations.

My focus in this memo is on nitrogen concentrations in Carmans River water past and present, and on what upper limit for the concentration of nitrogen in river water would be adequately protective of river water quality and ecology. As I now understand it, the Study Group's desired limit of 2.5 mg/L of N applies to N concentrations in groundwater leaving proposed new major development projects. This 2.5 mg/L N limit in groundwater is based on predictions made using an accepted groundwater model of what impacts this limit would have on N concentrations in groundwater. Of course the concern here is also what effect this additional nitrogen would have on receiving river water.

One of the stated goals of the Carmans River Study Group is to "improve and protect water quality" of the river. I note that an additional important benefit of reducing N concentrations in the river, and in groundwater in the watershed, would be a reduction in N loading to Great South Bay. Another stated goal of the Carmans River Study Group is to "Protect and restore stream and lake habitats and their species indices and biodiversity."

As I understand it the study group is recommending a nondegradation standard to help meet these goals. I interpret this to mean that the limit (standard) for nitrogen levels in waters of the Carmans River should be equal to, or less than, current nitrogen levels. Allowing a limit higher than current levels would be accepting degradation of water quality. Allowing current N concentrations to persist may not be sufficient to restore the river ecosystem.

I and The Nature Conservancy fully support establishment of a nondegradation standard as a first order objective. The challenge is in determining what N standard for river water should be used as a benchmark for nondegradation. While it may seem counterintuitive to a layperson, limits on nitrogen

needed to protect sensitive aquatic habitats and species are typically much lower than limits that meet standards for human health (Kniffen et al. 2009; Heitzman et al. 2010; Morgan and Philip 1986).

In an attempt to assist with determining a N standard for river water I have carefully considered all sources of data on N concentrations in the Carmans River, to the best of my knowledge. These data are summarized in Table 1. I have read all of the reports and publications on the Carmans River that I was able to obtain, as cited below. I also have analyzed water monitoring data gathered by the US Geological Survey (USGS), the Suffolk County Department of Health Services and others using samples collected at the USGS Yaphank gaging station in Southaven County Park. These data are available online at <http://nwis.waterdata.usgs.gov/ny/nwis/>. I looked at how N concentrations have changed with time, compared changes using summer and winter data separately, and compared total N concentrations with nitrate concentrations.

Note that the Cashin Associates data, and the USGS data used by Monti and Scorca and also analyzed by myself, are for baseflow samples. These samples were collected during dry weather, when river water is coming from the groundwater and not recently influenced by overland runoff. I do not have information on weather during sample collection by Nelson, Pope and Voorhees, or by the Suffolk County Department of Health. During wet weather when stormwater runoff may enter the river concentrations of N and other contaminants are likely to be higher.

Nitrogen concentrations in Carmans River baseflow measured as total N and as nitrate-N at the USGS gaging station have been rising steadily since intensive monitoring began in the 1960s and continued through 1997, the last data available (Figures 1–2). This increasing trend is highly significant statistically ($P < 0.0001$), and is alarming. This trend can also be seen visually in the plot of dissolved nitrate-N in Cashin 2002, Volume 3 page 288, in which they used 1971–1988 data from the same station. If samples collected in winter and summer are examined separately, the same general trend is observed (Figures 3–4).

Given long groundwater travel times and present trends of increasing development and associated increases in septic system leachate and fertilizer use, N concentrations in the Carmans River appear likely to continue increasing many years into the future. Reversing this trend will require reducing N inputs to the river and possibly implementing restoration methods including permanent N losses through in-stream processes.

Trying to select a fixed overall “standard” upper concentration limit for nitrogen in Carmans River water is like trying to hit a moving target provided by different investigators for different river locations for different seasons in different years. I decided to use primarily the USGS data set collected at the Yaphank stream gage, which provides the greatest number of samples for all seasons over the longest time period. I used data collected in the 1990s as the basis for current N concentrations, and data collected prior to 1980 as a target restoration standard. I used data from unfiltered total N samples as they seemed more biologically meaningful than filtered samples, and because there were many more unfiltered samples taken (171) than unfiltered (just 40, and the earliest was in 1978). For nitrate-N I chose filtered samples for the same reasons; there were 172 filtered samples and 129 unfiltered (earliest in 1973).

The large number of “undetectable” values presented a challenge. Excluding all nondetectable values biases the average upward. Replacing nondetectable values with zero biases the average downward. I decided to replace nondetectable values with a value equal to one-half of the detection threshold, which seems like a reasonable compromise.

Using the USGS data summarized in Table 1 and Figures 1–4 and interpreted as described above, it is my opinion that the N standard for Carmans River baseflow at and near the USGS gaging station at any time of year should be:

Nondegradation standard (Based on 1990s USGS data with no future increase with time):

Total nitrogen unfiltered: annual average (mean) value equal to *or less than* **1.27 mg/L**

Nitrate-N filtered: annual average (mean) value equal to *or less than* **1.0 mg/L**

Restoration standard (Based on pre-1980s USGS data; future N reduction desired):

Total nitrogen unfiltered: No data available but 0.85 mg/L is suggested by the relationship in Figure 5.

Nitrate-N filtered: annual average (mean) value equal to *or less than* **0.71 mg/L**

Draft restoration standard based on data of Cashin Associates (2002), Suffolk County Department of Health Services (2010), and N concentrations found in LI coastal plain ponds and NJ streams:

Nitrate-N: annual average (mean) value equal to *or less than* **0.30 mg/L**

Nitrate-N concentrations reported by Cashin Associates (2002) and the SCDHS (2010) are less than half of that found by the USGS in the 1990s. It isn't clear why the Cashin and SCDHS data are so much lower. They collected samples on only one or two days, however, and results could simply be due to chance. Comprehensive monitoring of the river is needed to track changes in N concentrations and other variables with time, and measure success in meeting target standards. Sufficient numbers of samples should be taken in all seasons and at several locations in the river to be confident in concluding that N concentrations are trending downward, staying the same, or increasing. Also it would be useful to investigate whether total N or nitrate-N concentrations would be a better indicator. These parameters are closely correlated, but there are some samples that are clearly outliers (Figure 5).

Regardless of data needs, it is clear that concerted and immediate action to significantly reduce N loading to the river and to Great South Bay are of paramount importance. The amount of reduction required to reduce N concentrations in the river to restoration levels needs to be determined by hydrologists using groundwater models.

The nitrate-N levels that I think would be most protective of the river would be well below 1 mg/L. This may seem impossibly low, but not if compared with concentrations of nitrate-N in NJ streams in the 1980s. Concentrations in NJ were <0.002 to 0.042 mg/L nitrate-N in “unpolluted” (undeveloped) streams, and in 0.182 to 0.759 mg/L in “polluted” (residential and/or agricultural uses) NJ streams (Morgan and Philipp 1986). Plant species composition in the “polluted” streams was shifted towards more weedy, cosmopolitan species significantly different from “unpolluted” streams. On Long Island, total N in the waters of many coastal plain ponds located in natural areas distant from roads and houses was undetectable (<0.01 mg/L) with the highest value 0.32 mg/L; nitrate-N levels were even lower (Jordan 2009, unpublished data).

Setting desired nitrogen levels below those currently known in the Carmans River would better meet another stated goal of the Carmans River Study Group, to “Protect and restore stream and lake habitats and their species indices and biodiversity.” Based on biological indicators monitored in 2008, Heitzman et al. (2010) considered water quality in the upper reaches of the Carmans River to be slightly impaired.

Closer to the river mouth, they considered water quality to be moderately impaired. If other biological indicators are available they should also be considered in setting a limit, but standards should be based on needs of the most sensitive organisms.

In contrast with the Carmans River, there has been a long-term decrease in nitrate concentrations and export in several New England watersheds monitored continuously since the 1960s (Bernhardt et al. 2005). This decline is thought to be due primarily to permanent N removal by denitrification in natural debris dams, which have increased in number with time and aging of the forests in watersheds. Some storage of N in organic matter in debris dams may also be occurring (Bernhardt et al. 2005).

It seems likely that denitrification in Upper and Lower lake sediments may be responsible, at least in part, for the relatively low N concentrations found by Nelson, Pope and Voorhees in 2009-2010 (Table 1). They reported hypoxic conditions in summer and fall in both lakes, which is needed for denitrification to occur. Without N removal by denitrification (or other means) higher nitrogen levels would be expected due to the density of homes in the lake watersheds. Another possibility is that more N is found in organic forms in lake waters, and total N would be a better measure of trophic conditions than nitrate.

I also recommend that the group consider future scenarios that may, or may not, be included in the models being used to predict development densities that should be adequately protective of future groundwater and river water quality (and N inputs to Great South Bay). My concerns are several:

- Most of the available data that I have seen represent base flow samples collected during dry weather free of stormwater runoff. Concentrations of N and other nutrients and contaminants are likely to be significantly higher in stormwater. Cashin Associates (2002) developed a wet weather monitoring protocol, but it was not followed since no heavy rains occurred during the period when they monitored the river. To get a true and complete picture of nitrogen in the Carmans River, wet weather monitoring is needed. I don't know if the models being used to predict N concentrations include stormwater influences.
- Most models of climate change predict some increase in precipitation, due primarily to increased amounts of precipitation in severe storms. Heavier precipitation would result in increased storm water runoff, and might also temporarily raise the water table high enough to flood septic systems. Increased leaching of N to groundwater and streams might result.
- Groundwater tables may rise up to 6 inches in the Carmans River watershed due to sea level rise (CWRMPSC 2010). This rise will also contribute to flooding of septic systems and increased leaching of N to groundwater and streams.
- Atmospheric deposition of N in precipitation contributes 42% of total N inputs to Great South Bay (26% directly on the Bay plus 16% from land deposition that is not retained by vegetation)(Kinney and Valiela 2011). This source of N is impossible to control on a local level. Thus it becomes even more critical that N inputs from groundwater and stream flow to the Bay be limited as much as technologically feasible.
- Continued development will not only add additional new sources of N to the watershed, but will also decrease cover of natural vegetation in the watershed that intercepts and retains atmospheric deposition of N. Thus more N will reach surface waters.

Using a precautionary principle I urge the Study Group to make the following recommendations. These recommendations have been widely proposed in many areas including Long Island, and I suspect the Study Group has already considered them in some form.

Adopt an interim N nondegradation standard for the water of the Carmans River of 1.27 mg/L total N and/or 1.0 mg/L nitrate-N initially, and a restoration standard of 0.7 mg/L nitrate-N. No data for total N in the river in the 1960s are available, but ~0.85 mg/L total N corresponds to a nitrate-N value of 0.7 mg/L based on the relationship shown in Figure 5. An even lower restoration standard of 0.30 mg/L nitrate-N may be appropriate; more data are needed to refine this number. Real progress can be made in achieving these reductions by implementing the following management and regulatory changes:

- Upgrade septic systems and sewage treatment plants in the Carmans River watershed to the highest standards possible. Slightly more than half of N entering the watershed and the river originate from septic systems (Kinney and Valiela 2011).
- Prevent stormwater runoff from entering the river directly through vegetated buffers and best management practices.
- Implement regulations to limit or prohibit fertilizer use in the watershed.
- Implement clearing restrictions to limit the loss of natural vegetated cover.
- Protect as much land in the watershed as possible through acquisition

These actions as well as others that the study group is considering might enable reducing nitrogen levels in the Carmans River below concentrations reached in the last few decades – and would also reduce N loading to Great South Bay.

I appreciate the hard and excellent work the Study Group has done under a very short deadline. Thank you for considering this submission. I appreciate the opportunity to contribute.

Literature cited:

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Kniffen, M., Neill, C. and R. McHorney. 2009. Nutrient limitation of periphyton and phytoplankton in Cape Cod coastal plain ponds. *Northeastern Naturalist* 16(3): 395-408.

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Nelson, Pope and Voorhess. 2010. Feasibility study to eradicate aquatic invasive/nuisance species in Canaan Lake, North Patchogue and Upper and Lower Lakes, Yaphank. Unpublished report. Pages 7-6 to 7-10 made available by J. Kassner.

Suffolk County Department of Health Services. 2010. Unpublished data provided by J. Kassner.

Table 1 and Figures 1-5 follow.

Table 1. Nitrogen concentrations in the Carmans River (mg/L)

	Years sampled	Location (station)	Total N	Nitrate-N	Nitrate
Monti & Scorca 2003 (median) [£]	1952-1997	USGS gaging station	1.25		
Monti & Scorca 2003 (range) [£]	1952-1997	Yaphank 01305000	0.53–2.7 [£]		
Jordan analysis (mean). Values < detection limit excluded. *	1966-1996	USGS gaging station	1.30 Unfltrd*	0.88 Fltrd*	
Jordan analysis (mean). Values < detection = ½ detect limit**	1966-1996	USGS gaging station	1.24 Unfltrd**	0.83 Fltrd*	
Jordan analysis (mean). Values < detection = considered 0 **	1966-1996	USGS gaging station	1.14 Unfltrd**	0.71 Fltrd**	
Jordan analysis (mean). Values < detection limit excluded***	1966-1996	USGS gaging station	1.33 Fltrd***	0.98 Unfltrd***	
Jordan analysis (mean). Values < detection = ½ detect limit*-*	1990s	USGS gaging station	1.27 Unfltr*-*	1.0 Fltrd*-*	
Jordan analysis (mean). Values < detection = ½ detect limit***--	1980 and earlier	USGS gaging station	1.06 Unfltr***--	0.71 Fltrd***--	
Cashin Assoc. Vol 3 p.263, 2002 [‡]	1971– 1984 [‡]	USGS gaging station	0.7–1.9		
Cashin Assoc. Vol. 2, 2002 [‡]	2001 (Nov.)	Headwaters (240-220)		0.09 [¥]	0.50
Cashin Assoc. 2002.Vol.2(mean) [‡]	2001 (Nov.)	Excluding headwaters & mouth		0.35 [¥]	1.57
Nelson, Pope & Voorhees:range [§]	2009-2010	Upper & Lower Lakes		0.18–0.49 [¥]	0.78–2.17
Nelson, Pope & Voorhees: mean [§]	2009-2010	Upper & Lower Lakes		0.80 [¥]	1.30&1.31
Suffolk Co. Dept. of Health ^{§§}	2010 (July)	Throughout	mean (range):	0.28 (0.25–0.35) [¥]	1.1–1.4

[£]Monti and Scorca expressed data as a median: half of data points fall above, and half fall below, the median. Total N data were calculated as a sum of nitrate, nitrite, ammonia, and organic nitrogen, and included filtered and unfiltered sampled. Number of samples =241. Samples were presumably all base flow. However a sample collected 11/17/1982 included stormwater and had an anomalously high N concentration of 8.3 mg/L. I removed this sample should be removed from the analysis (C.Schubert, statement to study group December 15, 2010). The next highest value for the time period in downloaded data was 2.7.

*Mean (average) of USGS data downloaded from <http://nwis.waterdata.usgs.gov/ny/nwis/> on January 12, 2012. Detection limits ranged from: Total N unfiltered <1.0 to <1.9 and nitrate-N filtered <0.78 to <1.6. Number of samples were: Total N =172 of which 151 were above detection limits. Nitrate-N 172 filtered of which 139 were above detection limits. It is unclear if total N values in the USGS database are sums calculated by Monti and Scorca (2003), who reported 241 samples.

**Mean (average) of USGS data. Values below the detection limit were replaced with values equal to one half the detection limit, or by zero as noted. Detection limits and number of samples as above.

***Mean (average) of USGS data as downloaded above. Detection limits ranged from: Total N filtered <1.1 to <1.9 and nitrate-N unfiltered <0.05 to <1.78. Number of samples were: Total N =40 of which 27 were above detection limits. Nitrate-N filtered=129 of which 118 were above detection limits.

*-*Mean (average) of USGS data 1990-1996. Values below the detection limit were replaced with values equal to one half the detection limit. Total N 1971-1980 and # samples =49. Nitrate-N 1966-1980 and # samples = 35.

**--Mean (average) of USGS data. Values below the detection limit were replaced with values equal to one half the detection limit. Total N 1971-1980 and # samples =68. Nitrate-N 1966-1980 and # samples = 87.

[‡]Cashin Total N data read from graph Vol. 3 p.263. 2001 Nitrate data read from graph Vol. 2 p.25, Figure 5 (N=12).

[¥]Data were reported as nitrate. The element nitrogen comprises 22.58% of the weight of nitrate (14/62), so I multiplied mg/L nitrate by 0.2258 to convert to mg/L nitrate-N

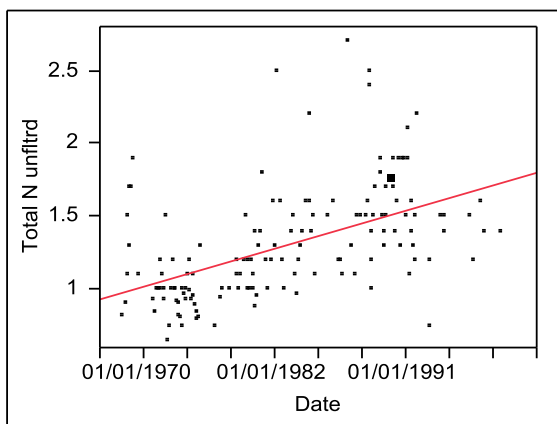
[§] Nelson, Pope and Voorhees (2010) data provided by J. Kassner. Samples were analyzed by Stony Brook University's School of Marine and Atmospheric Sciences in October 2009, April 2010, June 2010 and August 2010.

^{§§} Data provided by J. Kassner. Samples were collected from: Wertheim Refuge road bridge north to Yaphank-Middle Island Rd. Surface Water station ID: 240-15, -30, -67, -95, -135, -170, -205, -220.

Figure 1. Linear regression of Total nitrogen mg/L (unfiltered) by date in Carmans River base flow.

Analysis by M. Jordan using JMP 8.0

Samples collected at USGS gaging station Yaphank 01305000



Linear Fit: Total N unfltrd = $-0.966914 + 9.131e-10 \cdot \text{Date}$

Probability of a >F = <0.0001

Mean of response = 1.30

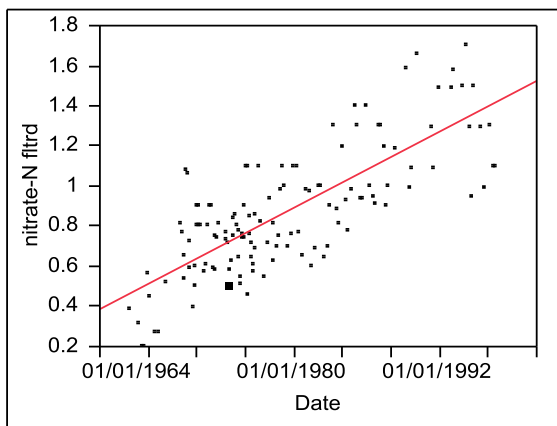
Undetectable readings excluded from analysis.

Outlier 8.3 mg/L Total N 11/17/1982 was excluded because stormwater was included in that sample (Schubert comment to Study Group Dec. 15, 2010)

Figure 2. Linear regression of nitrate-N mg/L (filtered) by date in Carmans River base flow.

Analysis by M. Jordan using JMP 8.0

Samples collected at USGS gaging station Yaphank 01305000



Linear Fit: nitrate-N fltrd = $-1.506281 + 9.993e-10 \cdot \text{Date}$

Probability of >F = <0.0001

Undetectable readings excluded from analysis.

Mean of response = 0.88

Figure 3. Change in total N concentrations in Carmans River base flow by decade for summer and winter time periods.

As defined by Monti and Scorca (2003) summer is April–September and winter is October–March.

Analysis by M. Jordan using JMP 8.0

Samples were collected at USGS gaging station Yaphank 01305000

Undetectable readings excluded from analysis.

Outlier 8.3 mg/L Total N 11/17/1982 was excluded (this sample included stormwater; Schubert comment to Study Group Dec. 15, 2010)

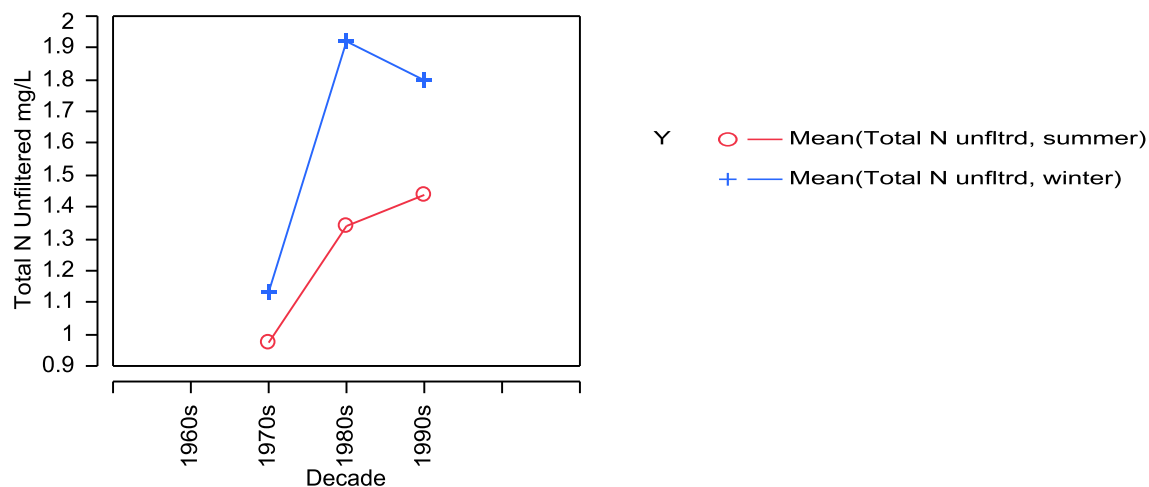


Figure 4. Change in total N concentrations in Carmans River base flow by decade for summer and winter time periods.

As defined by Monti and Scorca (2003) summer is April–September and winter is October–March.

Analysis by M. Jordan using JMP 8.0

Samples collected at USGS gaging station Yaphank 01305000

Undetectable readings excluded from analysis.

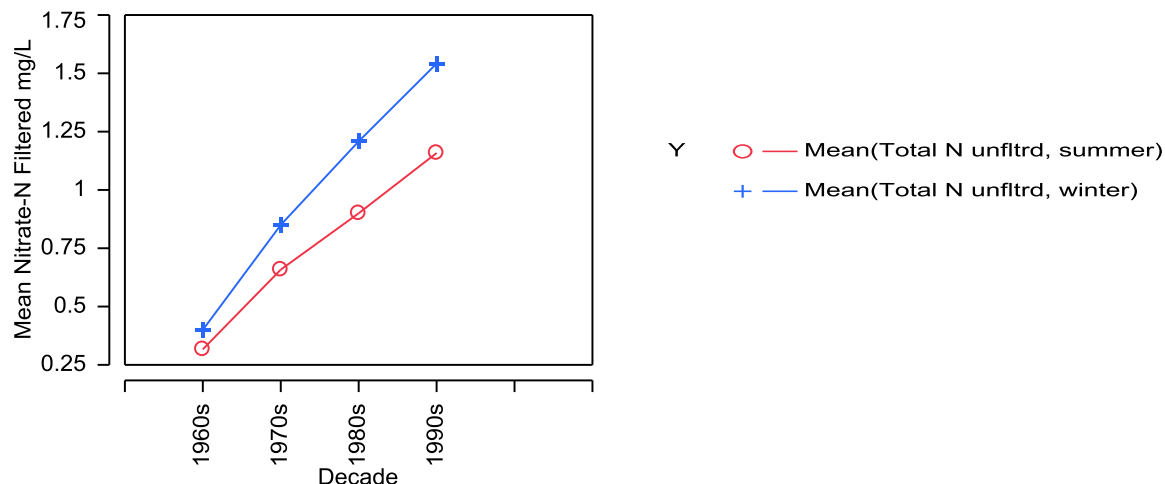
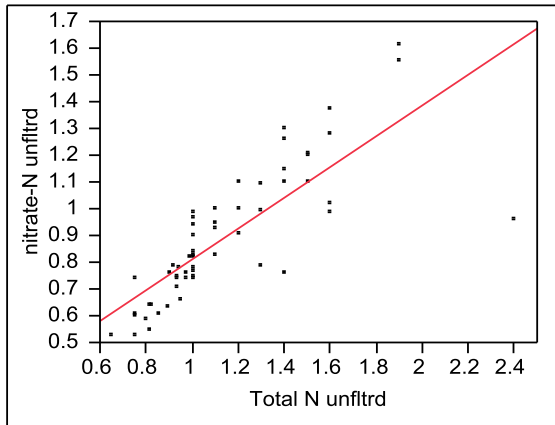


Figure 5. Bivariate Fit of nitrate-N (unfiltered) By Total N (unfiltered)

Analysis by M. Jordan using JMP 8.0

Samples collected at USGS gaging station Yaphank 01305000



Linear Fit: $\text{nitrate-N unfltrd} = 0.2357842 + 0.5750035 \cdot \text{Total N unfltrd}$

Probability of $>F = <0.0001$

Undetectable readings were excluded from the analysis.

N=59

