

## 9. Zoning

### 9.1. Existing Conditions

The existing zoning, by Area and acreage, is provided in Table 9-1 and shown in Figure 9-1. All of Areas A, E and F and a portion of Area B are zoned Residence A1. All of Areas C and D and a portion of Area B are zoned Light Industrial.

**Table 9-1: Existing and Proposed Zoning**

Existing Conditions		
Area	Zoning District	Acreage
A	A1	34.16
B	A1	93.44
B	L1	27.69
C	L1	28.32
D	L1	94.75
E	A1	15.00
F	A1	10.49

#### 9.1.1. A Residence 1 District Permitted Uses

Table 9-2 summarizes the permitted uses, accessory uses and used permitted by special permit by the Board of Appeals and the Planning Board.

**Table 9-2: Uses in A Residence 1 District**

<p>Principal uses</p> <ul style="list-style-type: none"> <li>• One-family dwelling</li> <li>• Churches or similar places of worship and parish houses.</li> <li>• Convents and monasteries.</li> <li>• Open farming and sale at retail or wholesale of farm, garden or nursery products produced on the premises.</li> <li>• Public and parochial schools and private schools</li> </ul>	<p>Accessory uses</p> <ul style="list-style-type: none"> <li>• Private garages.</li> <li>• Office of a physician, lawyer, architect, teacher or similar professional person residing on the premises</li> <li>• Customary home occupations only when conducted by the person residing on the premises.</li> <li>• Fences.</li> <li>• Signs,</li> <li>• Barns,</li> <li>• Other customary accessory uses, structures and buildings, incidental to the principal use not commonly conducted as a business.</li> <li>• Accessory apartments</li> <li>• Detached storage sheds.</li> <li>• Model dwellings.</li> <li>• Greenhouses.</li> </ul>
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Special permit from Board of Appeals <ul style="list-style-type: none"> <li>• Dwelling models</li> <li>• Day-care facilities.</li> <li>• Barbed wire fencing, ribbon wire fencing or electrical fencing</li> <li>• Other agriculture</li> <li>• A one-family dwelling occupied by more than eight persons living and cooking together as a single housekeeping unit though non-related by blood, adoption, or marriage</li> </ul>	Special permit from the Planning Board <ul style="list-style-type: none"> <li>• Colleges and universities</li> <li>• Golf courses and country clubs</li> <li>• Human cemeteries</li> <li>• Museum reuse of historic structures</li> <li>• Parks, playgrounds, athletic fields, bathing beaches, bathhouses or boathouses</li> <li>• Private community center, recreation buildings and outdoor recreation facilities as part of homeowners', condominium or community association.</li> <li>• Voluntary nonprofit ambulance companies</li> </ul>
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### 9.1.2. A Residence 1 District Dimensional Regulations

Table 9-3 contains the dimensional regulations for the A Residence 1 One Family District.

**Table 9-3: Table of Dimensional Regulations for A Residence 1 One Family District**

Maximum height (feet/stories)	35/2 1/2
Minimum area (square feet)	30,000
Maximum total building area (percentage of lot area)	15%
Minimum road frontage (feet/at a point in feet back from street line)	150/40
Minimum front yard (depth in feet)	40
Minimum side yard (width in feet)	20
Minimum total side yards (feet)	60
Minimum rear yard (feet)	60
<b>Accessory Structures</b>	
Maximum height (feet)	18
Minimum setback from any lot line (feet)	10
Minimum setback from street (feet)	60
Maximum lot coverage (percentage of required rear yard area)	25

### 9.1.3. L Industrial 1 District (Light Industry) Permitted Uses

Table 9-4 summarizes the permitted uses, accessory uses, uses and accessory uses permitted by special permit by the Board of Appeals and the Planning Board and prohibited uses.

**Table 9-4: Uses in L Industrial 1 District (Light Industry)**

<p>Permitted Uses</p> <ul style="list-style-type: none"> <li>• Agricultural or nursery use including the retail sale of products raised on the premises.</li> <li>• Bank</li> <li>• Church or similar place of worship</li> <li>• Commercial laundry establishment</li> <li>• Day-care facility</li> <li>• Health club</li> <li>• Historical or memorial monument</li> <li>• Lodge</li> <li>• Manufacturing</li> <li>• Office</li> <li>• Printing plants</li> <li>• Research and development uses</li> <li>• Veterinarian</li> <li>• Warehouse.</li> </ul>	<p><b>Accessory uses</b></p> <ul style="list-style-type: none"> <li>• Customary accessory uses, structures and buildings shall be permitted when located on the same lot as the principal authorized use, provided that such uses are clearly incidental to the principal use and do not include any activity conducted as a business</li> </ul>
<p><b>Town Board special permits</b></p> <ul style="list-style-type: none"> <li>• Airport</li> <li>• Electric generating facilities</li> </ul>	<p><b>Town Board special permits for accessory uses</b></p> <ul style="list-style-type: none"> <li>• Private parking garage as an accessory use to a permitted principal use</li> </ul>
<p><b>Town Board special permits (restricted)</b></p> <ul style="list-style-type: none"> <li>• Adult uses</li> </ul>	<p><b>Prohibited uses.</b></p> <ul style="list-style-type: none"> <li>• All uses not expressly permitted are prohibited</li> </ul>
<p><b>Planning Board special permits</b></p> <ul style="list-style-type: none"> <li>• Assembly and social recreation hall or dance hall.</li> <li>• Automobile parking field.</li> <li>• Bar, tavern or nightclub.</li> <li>• Heavy, construction vehicles and equipment dealership</li> <li>• Kennels</li> <li>• Lumberyard</li> <li>• Mini-storage warehouse.</li> <li>• Motor vehicle shop</li> <li>• Non-degree-granting instruction/programs,</li> <li>• Public, private school or parochial school with or without dormitory facilities.</li> <li>• Retail sales of goods generated by the principal use on the premises</li> <li>• Transportation terminal/facility.</li> <li>• Trucking terminal.</li> <li>• University or college.</li> </ul>	<p><b>Planning Board special permits for accessory uses</b></p> <ul style="list-style-type: none"> <li>• Drive-through facility as an accessory use to a bank</li> <li>• Fueling station as an accessory use to a transportation terminal/facility, trucking terminal, or warehouse</li> <li>• Motor vehicle repair shop as an accessory use to a transportation terminal/facility, trucking terminal, or warehouse</li> <li>• Outdoor or overnight parking of registered vehicles as an accessory use to a permitted principal use</li> <li>• Outdoor storage as an accessory use to a permitted principal use</li> <li>• Restaurant and take-out restaurant as an accessory use to a permitted principal use</li> </ul>

9.1.4. L Industrial 1 District (Light Industry) Dimensional Regulations

Table 9-5 contains the dimensional regulations for the L Industrial 1 District (Light Industry).

**Table 9-5: Table of Dimensional Regulations for L Industrial 1 District (Light Industry)**

Minimum lot area.	<ul style="list-style-type: none"> <li>• Except as otherwise provided herein, the minimum required lot area shall be 40,000 square feet.</li> <li>• The minimum required lot area for a bank with a drive-through facility shall be 65,000 square feet.</li> <li>• The minimum required lot area for a parcel located within a designated hydrogeologic sensitive zone shall be 120,000 square feet.</li> <li>• The minimum required lot area for a permitted principal use with an accessory restaurant use shall be three acres.</li> <li>• The minimum required lot area for a transportation terminal/facility shall be five acres.</li> <li>• The minimum requirement for lot area for an electric generating facility shall be 20 acres.</li> </ul>
Minimum width of lot throughout.	<ul style="list-style-type: none"> <li>• Except as otherwise provided herein, the minimum required width of lot throughout shall be 100 feet.</li> <li>• The minimum required width of lot throughout for a bank with a drive-through facility, or a permitted principal use with an accessory restaurant use shall be 150 feet.</li> <li>• The minimum required width of lot throughout for a parcel within a designated hydrogeologic sensitive zone, or for an electric generating facility or transportation terminal/facility shall be 200 feet.</li> </ul>
Minimum front yard setback.	<ul style="list-style-type: none"> <li>• Except as otherwise provided herein, the minimum required front yard setback shall be 50 feet.</li> <li>• The minimum required front yard setback for parcels five acres or more in size shall be 100 feet.</li> </ul>
Minimum side yard setback.	<ul style="list-style-type: none"> <li>• Except as otherwise provided herein, the minimum required side yard setback for a permitted use shall be 10 feet, with a total side yard setback of 30 feet.</li> <li>• The minimum required side yard setback for a bank with a drive-through facility, or a permitted principal use with an accessory restaurant use shall be 25 feet.</li> <li>• The minimum required side yard setback for parcels five acres or more in size shall be 50 feet.</li> <li>• The minimum requirement for a side yard setback for an electric generating facility shall be 100 feet.</li> </ul>
Minimum rear yard setback.	<ul style="list-style-type: none"> <li>• Except as otherwise provided herein, the minimum required rear yard setback shall be 50 feet.</li> <li>• The minimum requirement for a rear yard setback for an electric generating facility shall be 100 feet.</li> </ul>

Maximum permitted floor area ratio (FAR).	<ul style="list-style-type: none"> <li>• Except as otherwise provided herein, the maximum permitted FAR shall be 35%.</li> <li>• The maximum permitted FAR for a parcel within a designated hydrogeologic sensitive zone shall be 30%.</li> <li>• The maximum permitted FAR for an electric generating facility shall be 25%.</li> </ul>
Maximum permitted height.	<ul style="list-style-type: none"> <li>• The maximum permitted height for all structures shall be 50 feet or three stories.</li> <li>• The maximum permitted building height for an electric generating facility shall be 50 feet.</li> </ul>

#### 9.1.5. Surrounding Zoning

Surrounding zoning is shown in Figure 9-1. The surrounding zoning for each area is described below:

- Area A is surrounded by the A Residence 1 District.
- Area B is primarily surrounded by the L Industrial 1 District (Light Industry) with the eastern portion of Area B surrounded by the A Residence 1 District.
- Area C is adjacent to the L Industrial 1 District (Light Industry) to the north, west and south and the A Residence 1 District to the east.
- Area D is adjacent to the L Industrial 1 District (Light Industry) to the east and west and the A Residence 1 District to the north and south.

Within one mile of the site the majority of the land is within the A Residence 1 District (46%), the L Industrial 1 District (Light Industry) (32%) and the A Residence 10 District (11%). The remaining districts comprise less than 5% each of the surrounding area.

**Table 9-6: Zoning Within One Mile of the Site**

Zoning District	Acreage	Percent
A Residence 1 District	2470	46%
A Residence 2 District	117	2%
A Residence 5 District	188	4%
A Residence 10 District	565	11%
B Residence District	194	4%
B Residence 1 District	2	<1%
J Business District 2	23	<1%
J Business District 5	2	<1%
J Business District 8	5	<1%
L Industrial 1 District (Light Industry)	1695	32%
L Industrial 2 District (Heavy Industry)	103	2%

## **9.2. Potential Impacts of Proposed Project**

The proposed development would seek approval as a Planned Development District (PDD).

### **9.2.1. Planned Development District Purposes**

According to the Town Code, the three main purposes of the PDD are as follows:

- *Balance the vast but diminishing natural resources and tracts of land which must be preserved and protected for the benefit of this and future generations with the need to accommodate and provide for the future economic welfare and development of the Town.*

The proposed development can be considered to meet this purpose as the site is not located in a regulated environmentally sensitive area such as a Special Groundwater Protection Area, the Pine Barrens, or a Wild, Scenic or Recreational River Boundary. There are many lands within the Town that do fall into those areas and therefore, could have higher value for preservation. The site is located within the Carmans River Watershed which is not currently a regulated area, but is the subject of study currently in progress by the Town. It is anticipated that if regulations are developed as a result of that study, the proposed project would comply with those regulations. The proposed development would be connected to an advanced wastewater treatment facility, would retain all stormwater on site and would minimize the use of pesticides and fertilizers, all of which would limit the potential for impact to

the Carmans River. The proposed project would create economic development as described in Section 19.

*Create the type of planning and zoning flexibility which is necessary to achieve environmentally sensitive, economically beneficial and socially desirable development which is more creative and imaginative in its land use and design than is possible under the more rigid, conventional regulations currently in place. This type of sound planning is designed to achieve a commonality of benefits for the otherwise sometimes competing interests of planners, environmentalists, residents, civic groups, business people and developers by recognizing the unique locational, servicing and physiographic characteristics of varying parcels of land, and then shifting and modifying the development permitted on each in order to achieve benefits to the public and to the owner of the property.*

When the detailed site design of the project is performed, this purpose can be considered in the design in terms of creativity and imagination. The project is environmentally sensitive due to its location outside of regulated areas, and the LEED and alternative energy components which will reduce water, wastewater, solid waste and energy usage. However it will result in clearing of natural area. The project would be economically beneficial and would create socially desirable affordable housing opportunities.

- *Enact zoning which can be used as a positive planning tool by offering incentives to encourage comprehensive, coordinated planning and design, and the creation of developments and communities which are visually attractive, fiscally responsible, economically feasible and environmentally sensitive.*

The proposed project was envisioned by the County in their RFP as a comprehensive and coordinated plan which would include a mix of uses that would add to and support the adjacent County Complex and the Yaphank area. The proposed project would be fiscally responsible and economically feasible as discussed in Section 19, would include landscaped buffers and architecture that was visually pleasing, and as discussed above would have many components sensitive to protecting the environment.

### 9.2.2. Planned Development District Goals

The Town Code sets out twenty-two goals, recognizing that no project can meet all of them. Table 9-7 describes each goal and how the proposed development does or does not comply. As described in this table, the proposed project addresses many of the goals of the PDD zoning.

**Table 9-7: Conformance with PDD Goals**

GOAL	CONFORMANCE
(1) To encourage more desirable and publicly beneficial arrangements and designs of land uses in accordance with the comprehensive plan of the Town of Brookhaven (including the draft 1987 Land Use Plan, the 1985 Open Space Study and this Zoning Code), the Long Island Pine Barrens Protection Act (Article 57 of the New York State Environmental Conservation Law), the Central Pine Barrens Comprehensive Land Use Plan (prepared by the Central Pine Barrens Joint Planning and Policy Commission), the Long Island Comprehensive Special Groundwater Protection Area Plan (prepared by the Long Island Regional Planning Board pursuant to Article 55 of the New York State Environmental Conservation Law) and other applicable plans of Town, county, regional, state and federal agencies.	See section 8.2 for a discussion of compliance with various land use plans.
(2) To help implement the Central Pine Barrens Comprehensive Land Use Plan by providing a zoning mechanism designed to facilitate the transfer of Pine Barrens Credits (PBC's) from the core area of the Central Pine Barrens to receiving sites which are located and designed in a manner capable of accommodating the transferred development rights.	The project site is not located in the Central Pine Barrens.
(3) To encourage preservation and protection of the Town's natural environmental resources, including groundwater quality and quantity, the diversity of plant and animal communities, and significant habitat areas for rare, endangered, threatened and special concern species.	The proposed project is protective of groundwater quality and quantity due to the proposed wastewater treatment, stormwater treatment and LEED components. No significant habitat areas for rare, endangered, threatened and special concern species were identified on the project site.
(4) To encourage the preservation of large, undisturbed, contiguous areas of naturally vegetated open space, wherever possible adjacent to existing large public/quasi-public open space areas. Where adjacent location is not possible, to create natural open space linkages which are of appropriate size, location and character so as to maintain the connectivity of open space for environmental, visual and recreational functions so as to create, as far as is practicable, continuous and contiguous open space systems.	The proposed project would remove naturally vegetated open space, however, the final design could incorporate open space linkages as appropriate.

<p>(5) To encourage protection of scenic vistas, historical buildings and sites, sensitive archaeological areas and other important cultural resources.</p>	<p>The cultural resources investigation recommended mitigation measures to address the protection of cultural resources. When more details of the design of the proposed project become available, the Selected Developer will have to work with the NYS Office of Parks, Recreation and Historic Preservation to implement these mitigation measures.</p>
<p>(6) To encourage the conservation and enhancement of the visual quality and rural character of undeveloped areas of the Town by protecting visible open space, farmland and wild and scenic and recreational rivers, encouraging the creation and/or preservation of vegetative buffers along highways and between potentially conflicting land uses, and by the careful siting, design and buffering of building development.</p>	<p>The proposed project would be designed to include buffers.</p>
<p>(7) To minimize flooding and erosion by protecting the functions of wetlands, waterbodies, watercourses, floodplains, areas of high water table, steep slopes, erosion hazard areas and natural vegetative cover.</p>	<p>There are no wetlands, waterbodies, watercourses, floodplains, areas of high water table or erosion hazard areas on the site. The proposed design could minimize impacts on the small areas of steep slopes, Natural vegetative cover would be removed and replaced with a mix of pervious and impervious surfaces and a stormwater management system that would prevent flooding and erosion.</p>
<p>(8) To minimize stormwater runoff and maximize the quality and quantity of groundwater recharge by reducing land disturbance, using natural drainage systems wherever possible, filtering runoff from impervious surfaces, and maximizing on-site recharge.</p>	<p>The proposed project would be designed to meet this goal.</p>
<p>(9) To encourage protection of aquifers and minimize pollutants entering the soil and groundwater by maximizing the preservation of naturally vegetated areas, planting appropriate native species in areas which are to be landscaped, and utilizing proper fertilizer, pesticide, fungicide, and herbicide management techniques.</p>	<p>Plantings would consist of native species and an integrated pest management would be provided. The County's pesticide law for County facilities would be applied to this site.</p>
<p>(10) To locate, plan and design or redesign communities so that they will have a clear "sense of place" and will enable residents to reside, work, shop and enjoy recreational and cultural activities in the same area.</p>	<p>While the project site is not near other residential, shopping or cultural activities, it is located near recreational and employment centers and has access to transportation and utilities. The proposed project itself is intended to be a "place" where residents can reside, work, shop and enjoy recreational and cultural activities due to the mix of uses proposed uses and the existing employment center.</p>
<p>(11) To offer the opportunity for a balanced array of housing designed to meet the needs of the Town and the region.</p>	<p>The proposed project ;provides a range of affordable and market rate housing.</p>

(12) To encourage high-quality, environmentally sensitive industrial and commercial land uses on suitable and appropriately located parcels well served by transportation facilities and utility services.	The proposed project would include high-quality, environmentally sensitive industrial and commercial land uses on suitable and appropriately located parcels well served by transportation facilities and utility services.
(13) To encourage the efficient use of existing and planned infrastructure, and to encourage the clustering of development so as to facilitate the economical and efficient construction and operation of wastewater treatment plants to service as much of the Town's development as practical.	The proposed project would be clustered and would take advantage of the County's existing Yaphank plant, to be expanded as needed.
(14) To encourage the efficient provision and delivery of governmental services, including educational, cultural, recreational and emergency services.	Cultural and recreational facilities would be provided on site. Emergency service providers would have new tax revenue and a source of volunteers. The School District would have new taxes to offset the anticipated 207 new students.
(15) To help assure that new development will be fiscally sound in terms of revenues produced versus expenditures required, including consideration of operating as well as capital costs for the services and facilities required for its residents.	See the economic analysis (Section 19).
(16) To encourage protection of air quality by the clustering of development so as to encourage the use of public transportation and carpooling, as well as the provision of trails to encourage biking and walking.	There would be access to the LIRR and the County bus system. Trails could be included in the site design.
(17) To provide an efficient system of transportation infrastructure designed to maximize safety and minimize vehicular travel.	The site has access to major roadways including Yaphank Avenue, the Long Island Expressway, Horseblock Road and Sunrise Highway.
(18) To provide for the efficient use of land and other finite resources.	The County has determined that this land is surplus (i.e. not needed for County facilities) and could be put to use as a new community and economic generator.
(19) To minimize the consumption of energy through the appropriate siting and design of communities, buildings and infrastructure.	As discussed in Section 18, Utilities the project will be LLED certified and will include renewal energy sources including solar power and geothermal energy.
(20) To encourage the properly planned revitalization, rehabilitation and/or redevelopment of existing downtowns, shopping centers, strip commercial and industrial areas.	The proposed project does not address this goal.
(21) To reclaim and allow the proper redevelopment of environmentally impacted sites.	While the groundwater below the site is impacted, this would not affect redevelopment. Therefore, the proposed project does not address this goal.
(22) To prevent inappropriate development on stale, previously filed subdivision maps encompassing wetlands, high water table areas, steep slopes and other terrain generally considered to be unsuitable for development.	The project site does not include previously filed subdivision maps encompassing wetlands, high water table areas, steep slopes and other terrain generally considered to be unsuitable for development.

### 9.2.3. Planned Development District Approval Process

Applications for development approval within a Planned Development District consist of an application for change of zone and approval of a PDD Master Plan by the Town Board (Phase 1); and an application for site plan and/or subdivision approval by the Planning Board within the approved PDD, subject to the requirements of the approved PDD Master Plan (Phase 2).

#### Pre-Application

The first step is to submit a pre-application to the Planning Division of the Town Department of Planning, Environment and Development (PED). The pre-application assures that the applicant understands the policies, standards and requirements of the Planned Development Districts, identifies any potential major problems or conflicts within the application before it is formally prepared for presentation to the Town Board, provides the applicant with available information on the current status of existing and planned public services, facilities and improvements which may relate to the proposed development; and facilitates the early exchange of information between review agencies and the applicant.

The pre-application submission includes the following information:

- An outline map of the proposed PDD District, indicating the current zoning, size and location of each parcel.
- A location map of the site in relation to the surrounding area showing all roads and key development features, including significant neighboring land uses and existing zoning district boundaries.
- A current topographic map of the property indicating the general nature and location of any wetlands, hydrogeologic zone boundaries, special groundwater protection areas, Pine Barrens boundaries, special wildlife habitat areas, and any other significant environmental features which the applicant or his representatives are aware of.
- A conceptual sketch plan map indicating the approximate quantity, nature and location of proposed land uses; the proposed open space system and

its relationship to neighboring open spaces; the proposed principal means of access to the site and major elements of the site circulation system; the existing and proposed availability of mass transportation services, water supply and wastewater disposal; and such other information as would assist the reviewer at this conceptual review stage.

- An analysis of the estimated development potential (yield) based upon existing zoning; proposals for the transfer of density as a result of the use of Pine Barrens credits (PBC's) or from other sites owned or controlled by the applicant; the type and amount of development proposed, including any planned special public benefits and the zoning incentives which will be sought by the applicant in return for providing them; and any proposals for changes in permitted uses.
- A written statement transmitting the pre-application package and describing the basic concept of the proposed plan, the general reasons why the applicant believes that approval of its application would further the legislative intent, purposes and goals of PDD zoning, and any other supporting rationale or documentation which would be of assistance to the reviewing agencies at this stage.

Following receipt of a completed pre-application PDD package, a pre-application conference is scheduled to exchange information and ideas regarding the nature of the proposed project and its processing. After this pre-application conference, the applicant submits a formal application to the Town Board for PDD zoning and Master Plan approval.

#### Formal Application

An application for change of zone and PDD Master Plan approval is submitted to the Town Clerk and includes the following:

- Petition for zone change.
- Written statement containing the following information:

- The basic concept and rationale of the proposed plan, including an explanation of how its approval would result in a development pattern which minimizes environmental impacts, maximizes the permanent preservation and protection of significant site environmental features, including such features as wetlands, waterbodies, watercourses, flood hazard areas, steep slopes, groundwater recharge areas, areas of natural vegetation, special habitat areas, significant scenic vistas, erodible soils and sites or structures of historic or archaeological significance, and otherwise would serve to best achieve the legislative intent, purposes and goals of this article.
- A quantitative analysis for the entire site (including subtotals for each school district) which indicates preserved land areas, the floor space of the various types of proposed commercial, industrial and other nonresidential uses, the proposed number of residential dwelling units by size and type, and the area and percentages of the site proposed for each type of land use;
- Proposals for the construction, operation and maintenance of all planned utility systems, roadway improvements and other infrastructure;
- Proposals for the ownership, use and maintenance of all preserved open spaces; and
- A description of any proposed covenants and restrictions intended to be offered by the applicant.
- Zoning incentives and special public benefits: A statement of the zoning incentives requested by the applicant and the Pine Barrens credits (PBC's) which are offered as the basis for them. If other special public benefits are proposed in lieu of providing some of the required PBC's, an analysis should be included of the relationship between the requested incentives and the proposed benefits

- A description of any proposed changes of use
- A list of all governmental approvals, permits and licenses required
- Proof of ownership
- Disclosure affidavit.
- Qualifications and experience of the applicant and all professional members of the development team.
- Access agreement permitting access to the property for the purpose of inspection by governmental review agencies, their staff and consultants.
- Proposed PDD Master Plan:
  - Site location map
  - Environmental conditions map
  - Yield study.
  - Land use and development plan
  - Phasing plan
- Design concepts
- SEQR documentation
- Fees and deposits

Phase 1 review by Town Board

Once an application is complete a public hearing is scheduled and the Town Board, will determine the suitability of the proposed PDD application according to the following criteria:

- The extent to which the application serves to implement the legislative intent, purposes and goals as set forth in this article.
- The proposed mix of land uses and their planned design and arrangement on the site, including compatibility with site environmental conditions, and with neighboring streets and land uses.
- The potential impact of the proposed development upon the area in which it is located, and upon the Town and the region as a whole.
- The adequacy of the phasing plan to ensure that the uses in each phase will be self-sufficient if future phases should be delayed or abandoned.

#### Phase 1 action by Town Board

The Town Board will either approve, conditionally approve or disapprove the proposed Planned Development District change of zone and Master Plan application. Conditions of approval may include:

- Required modifications of any aspect of the proposed PDD Master Plan, including partial approval of all or any portion of the plan;
- Restrictions on the quantity, type and location of each permitted land use;
- Requirements related to the construction, ownership, operation and maintenance responsibility for both on-site and off-site infrastructure improvements;
- Provisions assuring the permanent ownership, preservation, and maintenance responsibility for required open spaces and for buildings or sites of significant historical and/or archaeological value;
- The establishment of standards, including design, performance and/or bulk standards, as determined appropriate by the Town Board, to govern the future approval of detailed subdivisions and/or site plans for individual sections of the proposed development by the Planning Board; and

- Requirements related to the phasing, timing and/or sequencing of the proposed development and related improvements.
- Any other items relating to the health, safety and general welfare of the public.

Additional issues include:

- Any proposed amendment to the boundary of a PDD District and/or to the approved PDD Master Plan may be made only with the approval of the Town Board and only after a public hearing.
- Approval or conditional approval of the PDD zone change shall be conditioned upon development in accordance with the approved PDD Master Plan and shall generally expire within three years.
- The Town Board may enter into a development agreement with the applicant.
- A copy of the approval is filed with the Town Clerk and with the Suffolk County Clerk, together with a copy of the approved PDD Master Plan, the development agreement (if any), any declarations of covenants or restrictions, or any other relevant legal instruments.

#### Phase 2 Subdivision and/or Site Plan Application to Planning Board

Following approval of a PDD change of zone and Master the applicant prepares detailed design and planning of individual sections of the planned development and submits applications to the Planning Board for subdivision and/or site plan approval. Applications are subject to site specific SEQR review and must conform with the requirements of the approved Planned Development District, the PDD Master Plan, the development agreement (if any), and any findings and conditions issued in connection therewith by the Town Board.

#### 9.2.4. Planned Development District Standards and Requirements

The Town Code states that the action of the Town Board in approving, approving with conditions, or disapproving a PDD application is a legislative determination and provides the following guidance concerning the general basis upon which the Town Board would exercise its legislative discretion, and to guide the actions of the Planning Board in connection with its Phase 2 reviews of proposed applications.

##### A. Permitted uses.

(1) The amount and type of development permitted within a PDD shall be the same as that permitted in the underlying zoning districts at the time of Town Board PDD approval, except as specifically provided below.

(2) Consistent with the goals and standards as stated herein, and the environmental conditions on the site, the Town Board may allow an increase in the amount of permitted development as a result of the transfer of development rights from environmentally sensitive properties external to the PDD which are to be permanently preserved in the Town of Brookhaven, including the use of PBC's acquired pursuant to the Pine Barrens Credit Program of the Central Pine Barrens Commission or other such similar program as may be established in the future by the Town of Brookhaven. With respect to the Pine Barrens Credit Program, the transfer of density shall be permitted only for PBC's acquired from lands located within the Town of Brookhaven. The use of such PBC's may, however, be restricted by the Town Board if the transfer is not from land located within the same school district.

(3) The Town Board may also approve a change of use allowing, for example, commercial instead of residential use or residential instead of industrial use. In such event, the applicant shall present a calculation of the estimated daily sewage generation and daily traffic generation for the proposed use and for the permitted use which it is intended to replace. These data will be based upon the Suffolk County Sanitary Code and the Institute of Transportation Engineers (ITE) publication entitled "Trip Generation," respectively. The Town Board, subject to its determination that the change of use is appropriate in helping to implement the

legislative intent of PDD zoning, may permit such change, provided that the resultant final impacts in terms of sewage and traffic generation are not adverse.

(4) The location of uses within a PDD shall be determined by the PDD Master Plan as approved by the Town Board, and not by the previously underlying zoning districts.

(5) In lieu of providing some PBC's, an applicant may request, and the Town Board may grant, zoning incentives in the form of increased density or change of use in return for the provision of special public benefits as defined in this article.

#### B. Zoning incentives.

(1) It is the policy of the Town Board to encourage, in connection with PDD applications, the use of PBC's transferred out of the Brookhaven portion of the Central Pine Barrens to increase on-site density and/or to allow requested changes of use, consistent with the purposes and goals of this article. Except in those cases where the Town Board may approve the provision of a special public benefit, as defined herein, all zoning incentives shall be based upon the use of PBC's.

(2) If an applicant proposes to provide other special public benefits in exchange for a zoning incentive, the actual zoning incentive decided upon by the Town Board will be based upon the comparable economic value of PBC's, the importance of the proposed public benefits, features or amenities to the accomplishment of the purposes and goals of this article, the estimated economic cost to the applicant of providing the benefit feature or amenity, the estimated economic gain to the applicant of obtaining the requested incentive and the environmental impact of the requested density increase and/or land use change, including considerations of sewage and traffic generation. The economic calculations will take into account estimated changes in both land value and development cost. All special public benefits for which zoning incentives are requested must be determined by the Town Board to be beyond that which would customarily be provided by an applicant or required by regulations of the Town of Brookhaven or other involved regulatory agencies.

C. Dimensional requirements.

(1) In order to allow maximum flexibility in the achievement of the legislative intent, purposes and goals of this article, and pursuant to the authority of § 278 of the Town Law, the Town Board and the Planning Board, in connection with their respective review and approval authorities, may modify the following dimensional standards that would otherwise be applicable to development within the underlying zoning districts:

- (a) Minimum lot area;
- (b) Minimum road frontage;
- (c) Minimum front, side and rear yards;
- (d) Minimum setbacks;
- (e) Maximum building height;
- (f) Maximum building and lot coverage;
- (g) Maximum net density;
- (h) Maximum units per building;
- (i) Minimum distance between buildings.

(2) Minimum buffer area requirements between adjacent land uses and along roadways and their adequacy shall be determined by the Planning Board.

D. Suffolk County Sanitary Code. All development within a PDD shall conform with the requirements of the Suffolk County Sanitary Code, unless otherwise specifically approved by the Suffolk County Department of Health Services.

E. Landscaping and fertilization. Clearing and grading limit lines shall be established on all approved subdivisions and site plans. They shall also be clearly marked in the field so as to help assure that there will be no disturbance of areas to be preserved with natural vegetation. Where landscaped/turf areas are provided,

the use of fertilizers, pesticides, fungicide and herbicides shall be minimized as much as possible and shall be required to comply with the standards as established by the Long Island Regional Planning Board and NYSDEC. Further, the use of pesticides, fungicides and herbicides shall conform as closely as possible to Integrated Pest Management (IPM) techniques. New plantings shall be of native plant species which require minimum fertilization, maintenance and care, and will otherwise help to promote the achievement of the legislative intent of this article.

F. Stormwater runoff. Stormwater drainage design shall provide for the recharge of all stormwater on site. Wherever possible, natural recharge areas shall be utilized for this purpose.

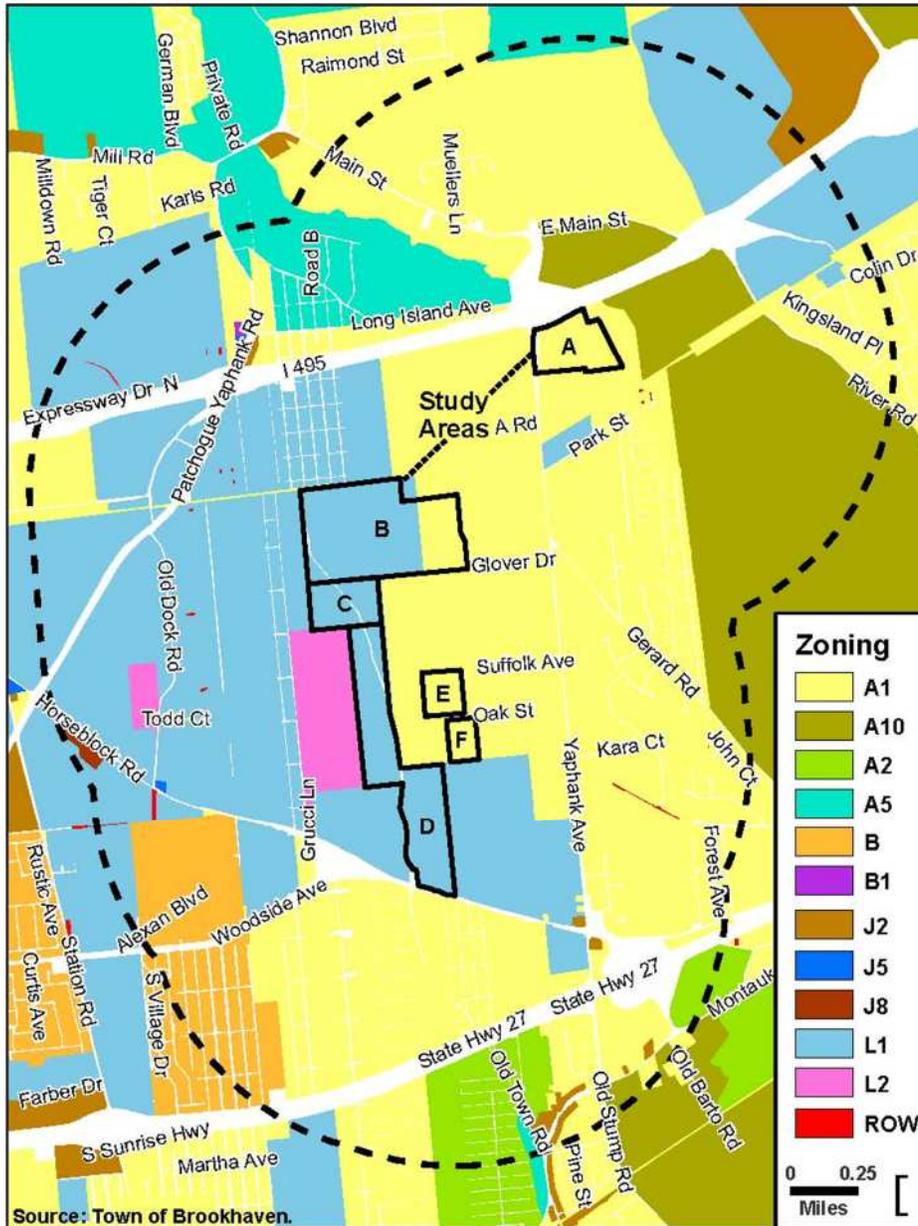
G. Off-street parking and loading. Off-street parking and loading shall be as required by Article XXXIV of this chapter, except that the Planning Board shall require landscaped islands, trees and shrubbery within and around parking and loading areas as determined appropriate by said Board to maximize the safe and efficient movement of on-site traffic, provide safety for pedestrians, create buffers in appropriate locations, and generally result in an aesthetically pleasing site development. The Planning Board is also hereby authorized to waive the initial construction of required parking and/or loading spaces and to substitute for them additional landscaping where said Board determines that such spaces will be in excess of actual requirements as a result of the unique characteristics of the proposed use and/or the ability of uses with different peak demand periods to share spaces. In such cases, the controls as set forth in § 85-350A(22) of this chapter shall apply.

H. Signage. The signage requirements applicable to each type of land use and each development area within the PDD shall be those applicable to the most comparable zoning district for such uses as determined by the Planning Board in connection with its Phase 2 review of site plans and subdivisions.

### **9.3. Proposed Mitigation**

The Selected Developer will be responsible for meeting the requirements of the PDD process including identifying the specific zoning incentives, public benefits and Pine

Barrens Credits required. Zoning incentives will likely include increased density and height. It is anticipated that public benefits may include the extensive public recreational facilities, affordable housing, and the wastewater treatment plant facility expansion. The exact formula will be determined between the Selected Developer and the Town through the PDD review process.



Map	Zoning District
A1	A Residence 1 District
A2	A Residence 2 District
A5	A Residence 5 District
A10	A Residence 10 District
B	B Residence District
B1	B Residence 1 District
J2	J Business District 2
J5	J Business District 5
J8	J Business District 8
L1	L Industrial 1 District (Light Industry)
L2	L Industrial 2 District (Heavy Industry)

