
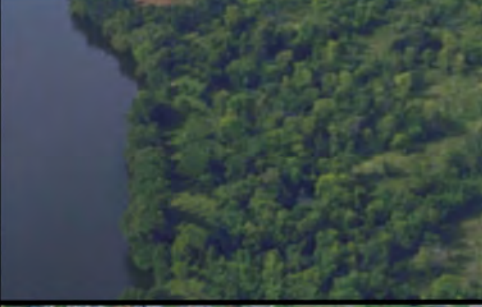




# Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Right Implementation Plan



February 2005

Without TDR	With TDR
	
	
<p><b>TRANSFER OF DEVELOPMENT RIGHTS (TDR) Potential Houses are Moved from one Parcel to Another</b></p>	



**Suffolk County Department of Planning**  
Suffolk County # New York



**Suffolk County Save Open Space Bond Act  
Workforce Housing Transfer of  
Development Right  
Implementation Plan**

**February 2005**

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February 2005

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INTRODUCTION .....	1
STEP ONE: CREATING THE WORKFORCE HOUSING DEVELOPMENT RIGHT ...	5
Overview .....	5
Action by the Legislature - Planning Steps Resolution .....	5
Calculation of Yield for Workforce Housing Development Rights (WHDRs) .....	6
Action by the Legislature - Authorizing Resolution .....	7
STEP TWO: CREATING THE WHDR REGISTRY AND BANKING THE WORKFORCE HOUSING DEVELOPMENT RIGHT .....	9
Overview .....	9
Administration .....	9
Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Right Program Registry (WHDR Registry) .....	9
Annual Report .....	11
STEP THREE: USING THE WORKFORCE HOUSING DEVELOPMENT RIGHT ....	13
Overview .....	13
General Policies Regarding the Use of Workforce Housing Development Rights ..	13
Starting the Use Process: Request to the Affordable Housing Director .....	14
Department of Planning WHDR Utilization Analysis Report .....	14
Involvement by the Suffolk County Department of Health Services .....	16
Preparation of Authorizing Resolution to Retire a WHDR .....	16
Filing of Covenant on WHDR Receiving Parcel .....	17
Transactions Required to Complete the Workforce Housing Development Right Process .....	17
CONCLUSION .....	19
APPENDIX .....	21
Introductory Resolution No. 1834-2004 a.k.a. Resolution 840-2004 .....	23
Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Right Program Flowchart .....	31
Glossary .....	33
Laws of Suffolk County, Part II Administrative Code, Article XXXVI, Affordable Housing .....	35
Sample Yield Map .....	41
Methodology for the Creation of the Suffolk County Save Open Space Bond Act Workforce Housing Development Right Rating System .....	43
SCDHS, Division of Environmental Quality, Transfer of Development Rights Standards .....	45



# INTRODUCTION

Continuing Suffolk County’s longstanding leadership in protecting significant lands and landscapes, the Save Open Space Bond Act is a program to preserve open space, protect farmlands and create additional new parklands. On November 2, 2004 the voters of Suffolk County approved the proposition that stated the following:

*Shall Resolution 840-2004, Amending the Suffolk County Charter to Authorize the Issuance of \$75 Million in County Bonds to Acquire Land for Open Space Preservation, Active Parkland, Farmland Development Rights, Environmental Protection Purposes, and Allow the Transfer of Development Rights, Be Approved?*

In addition to authorizing \$75 million for the acquisition of open space, parkland and farmland, the Save Open Space Bond Act provides a planning tool which addresses another critical public purpose in Suffolk County. The tool allows the county to transfer development rights from properties acquired pursuant to the Act for open space and passive parkland purposes to non-environmentally sensitive properties. The transferred development right(s) will then facilitate the construction of affordable ownership and rental workforce housing. The resolution creating the Save Open Space (SOS) Bond Act is included in the Appendix.

Following is a suggested methodology for a Transfer of Development Right (TDR) program related to the Save Open Space Bond Act. The program was developed by the Department of Planning in consultation with the Director of Environmental Affairs, Department of Health Services, the Department of Law and the Department of Economic Development and Workforce Housing. It is a three-step process that builds on existing county practice, framework and policy, where practical. Several working policies were established for the program and, where applicable, are highlighted in relevant sections of this report. A flowchart of the proposed Workforce Housing Transfer of Development Right Program is in the Appendix.

<b>Three Steps of the Suffolk County Save Open Space Bond Act Transfer of Development Right Program</b>	
<b>1</b>	<b>CREATE CREDITS</b> - Credits are calculated and collected as open space parcels are acquired.
<b>2</b>	<b>BANK CREDITS</b> - Hold credits for future use.
<b>3</b>	<b>USE CREDITS</b> - Potential workforce housing sites are analyzed, based on policies contained herein, regarding affordable housing guidelines, ground-water management specifications and good planning practices. Credits can only be used when a receiving site meets all requirements.

For the purposes of this report the “development right” that is removed from County acquired open space will be referred to as a “Workforce Housing Development Right” (WHDR). A glossary of useful terms has been included in the Appendix. The process begins with “Creating the WHDR” and ends with a WHDR utilized in a workforce housing project. Section one of this report establishes the mechanism by which the yield of potential development becomes a WHDR. The focus of section two is “Banking WHDRs” and provides the process to create a registry and database for holding the credits until they are used. The final section of the report focuses on “Use of the WHDR” and the process by which a WHDR can be utilized in a development project.

The purpose of this report is to provide a policy framework by which development credits yielded from properties acquired for conservation purposes via the Save Open Space Bond Act can be re-used in a manner consistent with;

- Enhancing regional conservation of open space;
- Continuing and/or expanding groundwater preservation initiatives;
- Reducing sprawl; and
- Creating affordable workforce homes.

These objectives will be met since the Save Open Space program will result in preservation and sterilization of some of Suffolk’s most environmentally critical lands. Conversely, as discussed in detail in this document, development rights may be transferred to receiving parcels for a specified purpose and only under stringent conditions. These conditions will ensure the protection of environmentally sensitive lands on a site-specific (parcel) level, and of groundwater and surface waters on a subregional basis.

The transfer of development right program is to be for the sole purpose of providing affordable ownership and rental workforce homes as defined in Article 36 of the Suffolk County Administrative Code. (A copy of Article 36 is provided in the Appendix.) Pursuant to the Save Open Space Bond Act, there are a number of statutorily required steps that must be taken before any right is held or any right is transferred by the County. The requirements include:

- The transfer of development right program to be established will be subject to the approval of the County Legislature and the County Executive via legislative resolution.
- The creation of each development right shall be subject to the approval of the County Legislature and the County Executive via legislative resolution.
- Each individual use of a development right shall be subject to the approval of the County Legislature and the County Executive via legislative resolution.

Key elements of the proposed plan that follows include:

- Including a clause in the Planning Steps resolution authorizing the analysis and interpretation of the WHDR yield from potential County open space acquisitions.



- Providing a methodology for the determination of WHDR yield.
- Including a clause into the Authorizing Resolution that permits the severing of development rights from the acquired parcel.
- Creating a computerized database for the registry, inventory and tracking of WHDRs.
- Applying “Smart Growth” criteria, contained herein, for the ranking of requests to use WHDRs.
- Providing a methodology for “Retirement of WHDRs ” via legislative resolution for a specific development project(s).

INTRODUCTION

CREDIT CREATION

CREDIT BANKING

CREDIT USE

CONCLUSION

Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Right Implementation Plan

# STEP ONE: CREATING THE WORKFORCE HOUSING DEVELOPMENT RIGHT

## Overview

All parcels purchased by the County of Suffolk are subject to the approval of the Suffolk County Legislature and the County Executive. Each parcel proposed for acquisition is reviewed by the Department of Planning. Parcels that might be appropriate for purchase and for transfer of the development rights under the Save Open Space Bond Act will be analyzed to determine the number of Workforce Housing Development Right(s) (WHDR) that can be transferred from the property.

Creating a Workforce Housing Development Right (WHDR) requires two actions by both the Legislature and the County Executive. For these actions, the number of WHDRs must be determined by calculating the number of WHDRs that can be yielded from the acquired (sending) parcel.

Parcels proposed for purchase under the Save Open Space Bond Act will require additional language in the Planning Steps resolution. The amended Planning Steps resolution will authorize the calculation of Workforce Housing Development Right(s) (WHDR). The Planning Steps resolution must be approved by both the Legislature and the County Executive.

The determination of the number of WHDRs from the proposed acquisition will be done by the Department of Planning in consultation with the Department of Health Services. The number of WHDRs will in most cases be calculated via a yield sketch. **The use of development rights generated from this program shall result in a “no net increase” or a reduction of the overall density of housing as compared to that which would occur if the acquired protected property were to be built as of right.**

The acquisition of a parcel of land is mandated by an Authorizing Resolution. The Authorizing Resolution for parcels purchased with SOS Bond Act funds which meet the requirements of the Charter should state that the property is not to be developed and that WHDRs shall be removed and banked in the Suffolk County Open Space Bond Act Workforce Housing Transfer of Development Right Program Registry. The Authorizing Resolution must be approved by both the Legislature and the County Executive.

## *Action by the Legislature - Planning Steps Resolution*

The land acquisition process in Suffolk County typically begins with a Planning Steps resolution introduced to the County Legislature. When approved, this resolution authorizes the County Department of Planning and the Division of Real Estate to begin the appraisal and analysis process and to commence negotiations. **For open space acquisitions that are expected to be purchased through the use of Save Open Space Bond funds, specific authorization for the Department of Planning to analyze the potential WHDR yield from the subject parcel should be included in the planning steps resolution.** This resolution will become the basis for

INTRODUCTION

CREDIT CREATION

CREDIT BANKING

CREDIT USE

CONCLUSION

the WHDR Program Registry in the Department of Planning for the subject parcel. Suggested form of the additional language includes:

Whereas, Resolution No. 840-2004 entitled the Save Open Space Bond Act authorizes the removal of development rights from county acquired parcels for the purposes of Workforce Housing;

Resolved, that the Director of the Department of Planning, in consultation with the Department of Health Services, is authorized to interpret and report the number of WHDRs that may be yielded from the subject property in the event that said property is to be purchased with Save Open Space Bond funds in accordance with Suffolk County Resolution 840-2004;

It should be noted that there are numerous properties currently undergoing consideration for acquisition under Resolution No. 621-2004, otherwise known as the Master List. Approximately sixty (60) sites were identified for proposed open space acquisition totaling over 3,800 acres. For those parcels that might already be in the Planning Steps process, it is recommended that any funding pursuant to the Save Open Space Bond Act that might be appropriated for acquisition of a parcel on the "Master List" trigger a review by the Department of Planning for the analysis of WHDR yield if said parcel is to be purchased with SOS Bond funds. The subsequent resolution to authorize a particular acquisition through the Save Open Space Bond Act would include the credit yield.

### ***Calculation of Yield for Workforce Housing Development Rights (WHDRs)***

The transfer of development rights is not a new tool in Suffolk County. Many programs exist throughout the county at the town and village level to balance environmental preservation with sustainable development and smart growth. For some time the Suffolk County Department of Health Services has allowed, as a matter of mitigation for private sector projects, the sterilization of property for the transfer of "waste water credit" (a form of development right) to a receiving parcel in need of variance relief from state and county health regulations.

The Department of Health Services currently accepts either a yield map or a mathematical calculation from a project sponsor/applicant to determine development right yield. Yield is a calculation that determines the number of housing units that can be built on a parcel of land. Each housing unit is equal to one development right.

A yield map is a scale map which depicts roadways, solutions to drainage, avoidance of environmentally sensitive and unbuildable areas. The yield map is typically based on local zoning, particularly minimum lot area and dimensional setback requirements. The yield map is the most accurate depiction of the total number of possible building lots and their configuration.

For current Department of Health Services practice, the mathematical calculation is a theoretical calculation and assumes 25% of every subject parcel will be needed for roadways, drainage and avoidance of environmentally sensitive and unbuildable areas and adjusts the mathematical yield

accordingly. Yield is then based on a calculation of 75% of developable land, unless a yield map demonstrates greater allowable density.

In some areas of the County the local zoning designations are more restrictive in terms of minimum lot area, than Health Department density restrictions. Varying yields can result depending on whether the Department of Health groundwater management zone minimum lot area requirements or the local zoning lot area requirements are utilized. For these areas, a question arises as to which minimum lot area requirement is appropriate for the Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Right Program and the calculation of WHDR yield.

An overriding policy was made early on in the formulation of the WHDR program and is put forth as the following:

**The use of development rights generated from this program shall result in a “no net increase” (one-to-one reuse of transferred development rights) or a reduction of the overall density of housing as compared to that which would occur if the acquired protected property were to be built as of right.**

The Department of Planning interpretation of this policy is that regardless of the groundwater management zone requirements, local zoning is the deciding factor in the creation of yield with respect to WHDRs unless Suffolk County Department of Health Services standards are more restrictive (as in local zoning less than 20,000 square feet in Groundwater Management Zones I and IV). The Department recommends that **the county prepare or cause to be prepared a yield sketch pursuant to local zoning to demonstrate the potential actual yield of WHDRs.** The yield sketch will be prepared or caused to be prepared by the Department of Planning in consultation with the Suffolk County Department of Health Services and other relevant departments of the county.

At the present time, the Suffolk County Department of Planning presents a case-by-case evaluation of each proposed open space acquisition site to the County Legislature’s Environment, Planning and Agriculture Committee. It is proposed that this continue to be the process by which the additional information regarding WHDRs be reported.

***Action by the Legislature - Authorizing Resolution***

The acquisition of a parcel of land by the County is subject to the approval of the County Legislature and the County Executive. Following the Planning Steps phase and after deliberation by the Legislature, the County Executive then offers final approval or disapproval. An approval is in the context of an Authorizing Resolution. **In accordance with the Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Right Program the Authorizing Resolution should be standard,** to read as follows:

Resolved, that as this property is not to be developed and is being purchased through the Save Open Space Bond Act in accordance with Suffolk County Resolution 840 of 2004, (number of) WHDRs shall be removed and placed in the Suffolk County Save Open Space

INTRODUCTION

CREDIT CREATION

CREDIT BANKING

CREDIT USE

CONCLUSION

Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Right Implementation Plan

Bond Act Workforce Housing Transfer of Development Right Program Registry pursuant to the Workforce Housing Development Right program as developed by the Department of Planning and approved by the Suffolk County Executive and County Legislature.

The acquired parcel will then be permanently sterilized by a legal covenant and must remain as open space in the County inventory. Language shall be added to the deed indicating that the property was purchased using Save Open Space Bond funds in accordance with Suffolk County Resolution 840 of 2004 and that the development rights were severed for workforce housing purposes. The number of such rights shall be indicated. The Authorizing Resolution becomes the basis for WHDR file creation and tracking.

## **STEP TWO: CREATING THE WHDR REGISTRY AND BANKING THE WORKFORCE HOUSING DEVELOPMENT RIGHT**

### *Overview*

Although WHDRs will not create an increase in overall density within a municipality or ground water management zone, it has the ability to shift density from one parcel (the sending parcel) to another (the receiving parcel). WHDRs have a value since they are a mechanism through which additional density can be created where, without the applied credit, it would not be allowed.

Workforce Housing Development Rights are an asset. As such, the rights must be monitored and the process and mechanism by which WHDRs are banked must be accountable.

### *Administration*

Workforce Housing Development Rights shall only be used for affordable ownership or rental workforce housing as mandated by Suffolk County Resolution 840 of 2004. It is proposed that the Workforce Housing Development Right program be administered by the Department of Planning. It is further proposed that the Department of Planning be responsible for the accounting of the pool of WHDRs and tracking of these rights. It is proposed that these rights be deposited in the Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Right Program Registry (WHDR Registry).

### *Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Right Program Registry (WHDR Registry)*

The WHDR Registry will be kept separate and apart from any other development rights program administered by the County of Suffolk or in which the County participates. **The WHDR Registry will include a computerized database and will be interdepartmental in nature.** Offices of the County Executive, the Legislature and various County Departments will be able to view the registry for information, however permission to edit the WHDR Registry will be held exclusively by the Department of Planning. The registry will be established to track WHDRs from creation of the credits to utilization of the credits for an affordable workforce housing project.

Typical terminology for transfer of development rights programs designate the parcel from which development rights are removed as “sending” areas or “sending” parcels. For the purposes of the WHDR program the “sending” parcel or parcels will be those identified in the Authorizing Resolution for the acquisition of open space. Parcels to which development rights are sent are typically termed “receiving” parcels or sites. A workforce housing project that proposes to utilize

WHDRs on a site, as sanctioned by the Suffolk County Executive and County Legislature, would be considered a “receiving” site.

A file will be created for each “sending” and “receiving” parcel. Every file will include copies of any yield analysis and copies of the respective deed with any restrictions that may be applicable to the subject property. Each file will include a hard copy office file and a corresponding file (record) in the digital data base. All paper records will be scanned into a digital format and linked to the data fields that comprise each record in the data base. This redundancy will assure a paper backup for the digital database.

The Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Program Registry will include the following information:

**1. For the Acquisition (Sending) Parcel**

- Name of property owner prior to County purchase
- Parcel common name if any
- Suffolk County Tax Map Number
- Town and Hamlet or Village where the parcel is located
- Name of street, road, avenue, etc. fronting the parcel
- School District
- Area of the parcel in square feet or acres
- Town zoning category for the parcel at the time of acquisition
- Groundwater Management Zone
- Special Ground Water Protection Area (if applicable)
- Soil type/characteristics
- Wetlands, surface waters, or other environmental constraints on site
- Lot yield pursuant to yield sketch
- Number of Workforce Housing Development Rights generated by Acquisition
- Authorizing resolution number
- Department file number
- Conservation easement

**2. For the Use (Receiving) Parcel**

- Name of property owner
- Parcel common name or project name if any
- Suffolk County Tax Map Number
- Town and Hamlet or Village where the parcel is located
- Name of street, road, avenue, etc. fronting the parcel
- School District
- Area of the parcel in square feet or acres
- Town zoning category for parcel at the time of the Authorizing Legislative Resolution
- Groundwater Management Zone
- Special Ground Water Management zone (if applicable)
- Soil type/characteristics
- Wetlands, surface waters, or other environmental constraints on site
- Lot yield pursuant to yield map
- Project type (single family, multiple family, planned unit development, etc.)
- Number of affordable units out of the total number of units (number and percent affordable)
- Number of Workforce Housing Development Rights to be retired in project
- Authorizing resolution number
- Department file number
- Deed of Transfer of Development Rights
  - Reverter clause
  - Affordable Housing use restriction



Figure 1. Proposed Display Window for the Registry Database.

<b>ACQUISITION (SENDING) PARCEL</b>		
Authorizing Resolution Number	Department File No.	
Name of Property Owner	Parcel Common Name	SCTM NO.
Town/Hamlet or Village	Street/Road/Ave. fronting parcel	
Area of parcel, (Sq. Ft.)	School District	Zoning Category
Groundwater Management Zone	Special Groundwater Protection Area	
Soils	Wetlands, Surface waters, other environmental constraints	
Lot yield pursuant to yield map	No. of Workforce Housing Development Rights generated by acquisition	
Conservation Easement		
<b>USE (RECEIVING) PARCEL</b>		
Authorizing Resolution Number	Department File No.	
Name of Property Owner	Parcel Common Name	SCTM NO.
Town/Hamlet or Village	Street/Road/Ave. fronting parcel	
Area of parcel, (Sq. Ft.)	School District	Zoning Category
Groundwater Management Zone	Special Groundwater Protection Area	
Soils	Wetlands, Surface waters, other environmental constraints	
Lot yield pursuant to yield map	No. of Workforce Housing Development Rights used in development	
Deed of Transfer of Development Rights		

INTRODUCTION  
CREDIT CREATION  
CREDIT BANKING  
CREDIT USE  
CONCLUSION

**Annual Report**

The Department of Planning will produce an annual report describing the activities of the WHDRs banked. The report will account for all of the development rights produced and/or utilized both annually and on a cumulative basis. A list of all of the pertinent information relative to transactions of the County with respect to the creation and use of the WHDRs will be included in the report. The report will be provided to the offices of the Suffolk County Executive and the Suffolk County Legislature.

Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Right Implementation Plan

## **STEP THREE: USING THE WORKFORCE HOUSING DEVELOPMENT RIGHT**

### *Overview*

Currently the County of Suffolk provides a comprehensive policy to enable the County to provide affordable housing opportunities directly and through other local municipalities. The use of development rights generated from this program is one of several programs the County has to facilitate the development of affordable workforce housing.

The County has five major programs that make affordable housing available to many segments of Suffolk County's population. While there are several points of contact within the departments of the County, all requests for County involvement are channeled to and are formally initiated for processing by the office of the Affordable Housing Director within the Department of Economic Development and Workforce Housing. The Affordable Housing Director, after consultation with others, including the Suffolk County Departments of Planning and Health Services, prepares an authorizing resolution on behalf of the County Executive for adoption by the legislature.

### *General Policies Regarding the Use of Workforce Housing Development Rights*

The Save Open Space Bond Act mandates that the transfer of Development Right Program be established solely to provide affordable ownership and rental workforce homes as defined in Article 36 of the Suffolk County Administrative Code. Criteria for the development of the Workforce Housing Development Right Program were formulated to achieve this purpose. The following six policy statements should be considered as **fatal flaw** criteria for reviewing potential WHDR project uses.

- 1. The use of development rights generated from this program is for the sole purpose of permitting the development of affordable rental and ownership workforce housing to individuals.**
- 2. Only the construction of homes with a maximum purchase price of \$250,000.00 and affordable rental units will be eligible for the transfer of Workforce Housing Development Rights generated from this program.**
- 3. Where a for-profit developer is to be used, any profit realized shall be in accordance with New York State Affordable Housing Corporation guidelines.**
- 4. The workforce homes created through the use of development rights generated from this program shall remain as workforce homes in perpetuity within the requirements of Article 36 of the Suffolk County Administrative Code.**
- 5. The development rights generated from this program shall not be used on properties**
  - contained in the Master List of Proposed County Open Space Acquisitions,**
  - that have received an authorized planning steps resolution, or**
  - that have been identified for acquisition, protection, or preservation on another state or local government approved and adopted plan or list.**

**6. The use of WHDRs will continue and/or expand groundwater preservation initiatives.**

Additionally, for the initial stages of the program, WHDRs are to be utilized intra-Ground Water Management Zone and intra-Town only. Utilization of WHDRs between Ground Water Management Zones or between Towns may require approvals of other jurisdictions and may not be construed “as-of-right”. Requests for use of the WHDRs will be screened by the Affordable Housing Director in consultation with the Departments of Planning and Health Services and eliminated from consideration if any one of the above goals are not achieved.

***Starting the Use Process: Request to the Affordable Housing Director***

It is proposed that requests to utilize or retire a WHDR be formally made to the Affordable Housing Director in the Department of Economic Development and Workforce Housing. The Affordable Housing Director will review the request and provide a copy of the application along with an evaluation, analysis and comment regarding fatal flaw criteria numbers 1 through 4 simultaneously to the Planning and Health Departments. After the Planning and Health Departments undertake their respective reviews, including fatal flaw criteria numbers 5 and 6, they will consult with the Affordable Housing Director who will prepare the authorizing resolution to utilize or retire a WHDR in conformance with Resolution 840-2004 and the policies and procedures contained herein.

***Department of Planning WHDR Utilization Analysis Report***

The Department of Planning review of the appropriateness of the utilization or retirement of a WHDR is based upon the principles of good planning including a more recent term, Smart Growth. The fundamental premise of Smart Growth is to reduce development sprawl and to promote development where existing infrastructure and services (streets, public water, and other utilities) exist.

Priority shall be given to projects that are:

- Within an existing downtown,
- In designated nodes of retail/commercial corridors, existing retail centers, hamlet centers
- On infill parcels and previously developed properties, or
- Other areas targeted for mixed-use development or redevelopment such as Transit Oriented Development (TOD) or Traditional Neighborhood Development (TND)

Project requests that pass the initial fatal flaw tests by the Affordable Housing Director will be submitted to the Department of Planning. The Planning Department will, applying the Suffolk County Save Open Space Bond Act Workforce Housing Development Right Rating System (WHDR Rating System), which is shown as Figure 2, prepare a WHDR Utilization Analysis Report to determine the appropriateness of the request.

The WHDR Utilization Analysis Report will enable a ranking of requests using the principles of good planning and will be considered in the recommendation for awarding of the WHDR(s). In the eventuality that demand for WHDRs exceeds the supply, the limitation on available rights could necessitate awarding rights by grade as WHDRs become available.

Upon completion, the WHDR Utilization Analysis Report will be submitted to the Affordable Housing Director.

**FIGURE 2. SUFFOLK COUNTY SAVE OPEN SPACE BOND ACT  
WORKFORCE HOUSING DEVELOPMENT RIGHT RATING SYSTEM**

**Municipal Considerations- 20 points**

- 4 The permit process is predictable and streamlined.
- 4 The local municipality will expedite the permitting of the development consistent with a locally generated plan and consistent with the resolution and the policies of the Suffolk County SOS TDR Program .
- 4 The permit process encourages community and stakeholder collaboration in development decisions.
- 4 The developer has demonstrated community support.
- 4 The development will strengthen the local economy.

**Site Attributes- 20 points**

- 4 The site can adequately accommodate the proposed use in terms of the layout of buildings, parking, waste disposal systems, landscaping and natural areas.
- 4 The development will not adversely effect any environmentally sensitive natural habitats such as wetlands and watercourses nor impact any endangered or threatened species or ecological communities nor in any other manner create a significant adverse impact to the environment.
- 4 The proposed use will not adversely effect any unique land form such as a kettle hole, dune or glacial erratic.
- 4 The development will minimize use of fertilizer and pesticide dependent vegetation and maximize the preservation of indigenous vegetation.
- 4 The development will provide on-site amenities including recreational and/or social facilities.

**Protection of Community Character and Appearance- 20 points**

- 5 The proposed use includes an architectural and site design treatment that is in context with the community.
- 5 The development proposal provides for the protection of important historic and cultural features.
- 5 The development proposal channels development into areas and sites that have been previously disturbed.
- 5 The site is within or adjacent to a hamlet center or downtown.

**Compatibility of Uses- 10 points**

- 4 The proposed development will be compatible with surrounding land uses in terms of scale and massing and will be buffered from adjacent incompatible uses.
- 3 The proposal includes building placement in context with surrounding development; e.g., buildings along sidewalk in downtown areas rather than setback.
- 3 The uses within the site are compatible, especially where multiple uses are proposed.

**Transportation- 10 points**

- 2 The site is within one-half mile of a public bus stop or railroad station.
- 2 The proposed development is consistent with a transit oriented development plan.
- 2 The development includes high quality pathways for pedestrians and bicyclists including on-site improvements.
- 2 The development includes high quality pathways for pedestrians and bicyclists including off-site improvements that provide connections to area destinations including schools, parks, commercial uses and transit stops.
- 2 The development includes multimodal transfer facilities.

**Housing Affordability- 20 points**

- 4 The development will provide at least 20% of the total development as affordable units.
- 4 The development will provide for energy efficient building design significantly above minimum code requirements.
- 4 The site is developed in conjunction with an employer assisted housing opportunities program.
- 4 The development provides for affordability for persons earning less than 50% of the HUD established Nassau- Suffolk median income and/or the development provides for special needs housing.
- 4 The developer will provide pre-purchase mortgage counseling and/or tenant rental counseling.

**Bonus: 5 points for each additional 10% of affordable housing above 20% to a maximum of 15 additional points.**

**Total Score = 100 Points**  
**Maximum with Bonus = 115**

***Involvement by the Suffolk County Department of Health Services:***

The sole use of WHDRs is to facilitate additional density for the purpose of providing affordable workforce housing in unsewered areas, when the density would not otherwise be allowed under Article 6 of the Suffolk County Sanitary Code.

Continuous interdepartmental communication with the Department of Health Services (DHS) is required at all phases of the WHDR process. Yield of WHDRs from properties under consideration for open space acquisition will be determined with DHS consultation and coordination. Similarly, no project will be recommended for approval to the Legislature until the DHS has reviewed the potential use of the WHDRs and acknowledges the applicability of the WHDRs. Initially, redemption of WHDRs in areas not conforming with Sanitary Code density standards will require a variance hearing before the SCDHS Board of Review.

The use of WHDRs generated from this program could be expedited through the completion of, and conformance to, sub-regional plan(s) (SRPs) in accordance with the policies contained herein that have been approved by local municipalities and designated through an intergovernmental agreement with the County. At the present time no SRPs exist. The Appendix contains a copy of the *Transfer of Development Rights Standards* used by the SCDHS.

***Preparation of Authorizing Resolution to Retire a WHDR***

The Affordable Housing Director, using the Department of Planning *WHDR Utilization Analysis Report*, will prepare an Authorizing Resolution to “use” or “retire” the WHDR for the subject project. **Each individual use of a WHDR(s) shall meet the policies contained herein and be subject to the approval of the County Legislature and the County Executive.** A sample resolved clause for an authorizing resolution of the Legislature may read:

Resolved, that (number of) Workforce Housing Development Rights shall be subtracted from the total number of inventoried development rights from the Workforce Housing Development Right Registry and shall be retired and attached to this project for the sole use of development of affordable workforce housing.

Once approved by the Legislature and signed by the County Executive, a copy of the resolution will be forwarded to the Department of Planning and the retired WHDRs will be deducted from the WHDR Registry.

Some workforce housing projects may already be in an existing program or otherwise funded through a contract with the Workforce Housing program pursuant to Article 36 of the Suffolk County Administrative Code. As such, there may be different requirements that must be clearly understood and recorded. For this situation, it is suggested that the authorizing resolutions for the existing project and the use of a WHDR be combined into one resolution rather than having separate resolutions. This would help to expedite and streamline the approval process.

***Filing of Covenant on WHDR Receiving Parcel***

Upon approval of the authorizing resolution to use WHDRs the developer acknowledging the transfer of Workforce Housing Development Rights must file a covenant on the deed for the receiving parcel. The covenant is a use restriction which restricts the property for use as affordable housing.

***Transactions Required to Complete the Workforce Housing Development Right Process***

The transfer of Workforce Housing Development Right process is complex. A number of transactions will be needed for a completed transfer of Workforce Housing Development Rights. Each of these transactions will be reflected in a written record. In some instances, the documents will also be recordable. These transactions and the types of documents used to reflect them are described below:

Trigger	Purpose	Record/ Transaction Procedure	Location of Record
Acquisition of Sending Parcel	Sever development right(s)	A record must be created at the time of acquisition of the County's property that the development rights are severed. This record will be in recordable form.	Suffolk Co. Dept. of Planning WHDR Registry
Variance to permit increased density on Receiving Parcel	Applying/ using development right(s)	Where applicable, Suffolk County Department of Health Services (SCDHS) would grant a written variance to permit the increased density. SCDHS would approve the recipient's development plans. Final approval from the SCDHS would be stamped on a map or plans that would be filed in the County Clerk's office.	Suffolk County Clerk
Transfer of WHDR to Receiving Parcel	Retire development right(s)	A legislative Authorizing resolution that mandates the withdrawal of development rights from the WHDR Registry.	Clerk of the Legislature
Approval to make withdrawal from WHDR Registry	Retire development right(s)	The Department of Planning will withdraw WHDR(s) from the WHDR Registry upon receipt of the approved Authorizing Resolution.	Department of Planning
Contract to create Affordable Housing	Contract between WHDR(s) recipient and Suffolk County	A contract would be entered into between the recipient and the County, whereby the County promises to transfer the development rights by deed to the recipient for the purposes of affordable housing, and the recipient agrees to use the property for affordable housing purposes. A sunset provision of 3-5 years for the use of the WHDRs by the recipient will be incorporated into the agreement with reference to liquidated damages for failure to implement the use of the WHDRs. Such an agreement would have a "renew for cause" option at the discretion of the County.	Department of Economic Development and Workforce Housing
Contract to create Affordable Housing	Deed of development rights transfer	A deed of development rights is transferred to the recipient. A reverter clause will be inserted into the deed, to become effective upon failure to implement the WHDR.	Suffolk County Clerk
Contract to create Affordable Housing	Use restriction on receiving parcel	The recipient places a use restriction on the subject property restricting it for use as affordable housing and transfers a covenant and deed of development rights to the county.	Suffolk County Clerk
Contract to create Affordable Housing	Conservation easement on sending parcel	A conservation easement or covenant is placed on the County's "sending" parcel as may be applicable	Suffolk County Clerk

INTRODUCTION

CREDIT CREATION

CREDIT BANKING

CREDIT USE

CONCLUSION

Suffolk County Save Open Space Bond Act Workforce Housing Transfer of Development Right Implementation Plan



## CONCLUSION

The preceding report provides a framework for the development and implementation of a county program that will take development credits from specifically authorized properties acquired for conservation purposes via the Save Open Space Bond Act, Suffolk County Resolution 840 of 2004 and re-use them for the development of affordable workforce housing in a manner consistent with:

- Enhancing regional conservation of open space;
- Continuing and/or expanding groundwater preservation initiatives;
- Reducing sprawl; and
- Creating affordable workforce homes.

The Workforce Housing Development Right (WHDR) program is for the sole purpose of providing affordable ownership and rental workforce homes as defined in Article 36 of the Suffolk County Administrative Code.

The WHDR program established is understandable, predictable, provides certainty and is based on clearly defined and existing rules and regulations in order to easily generate workforce homes for a range of incomes and age groups.



## **APPENDIX**



**UPDATED VERSION AS OF 8/24/2004**

**Intro. Res. No. 1834-2004**

**Laid on Table 8/24/2004**

**Introduced by Legislators Vilorio-Fisher and Crecca**

**RESOLUTION NO. -2004, ADOPTING LOCAL LAW NO. -2004,  
A CHARTER LAW ADDING ARTICLE XXXVI TO THE SUFFOLK  
COUNTY CHARTER TO PROVIDE A SUFFOLK COUNTY SAVE  
OPEN SPACE (SOS), FARMLAND PRESERVATION, AND HAMLET  
PARKS FUND AND PERMITTING THE TRANSFER OF  
DEVELOPMENT RIGHTS**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a regular meeting held on \_\_\_\_\_, 2004, a proposed local law entitled, "**A CHARTER LAW ADDING ARTICLE XXXVI TO THE SUFFOLK COUNTY CHARTER TO PROVIDE A SUFFOLK COUNTY SAVE OPEN SPACE (SOS), FARMLAND PRESERVATION, AND HAMLET PARKS FUND AND PERMITTING THE TRANSFER OF DEVELOPMENT RIGHTS**", and said local law in final form is the same as when presented and introduced; now, therefore, be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO. - 2004, SUFFOLK COUNTY, NEW YORK**

**A CHARTER LAW ADDING ARTICLE XXXVI TO THE SUFFOLK  
COUNTY CHARTER TO PROVIDE A SUFFOLK COUNTY SAVE OPEN  
SPACE (SOS), FARMLAND PRESERVATION, AND HAMLET PARKS  
FUND AND PERMITTING THE TRANSFER OF DEVELOPMENT RIGHTS**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF  
SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature finds that Suffolk County Local Law 27-1998 was adopted on June 19, 1998 for the purpose of the preservation of rapidly dwindling open space throughout Suffolk County; the acquisition of land within the Central Pine Barrens Area; the acquisition of active parklands; and the acquisition of farmland development rights, via an amendment to the County Charter to authorize the issuance of \$62 Million in bonds, the expenditure of which funds shall be conditioned upon receipt of matching funds from the State of New York, local government, and/or the federal government only in the case of farmland acquisitions.

This Legislature also finds that Suffolk County Local Law 35-1999 was adopted on December 15, 1998, to renew the 1/4% County Drinking Water Protection Program for thirteen (13) years on a modified basis to provide for sewer district tax rate stabilization, environmental protection, and property tax mitigation to help fund programs in the annual County Operating Budget.

This Legislature further finds that Suffolk County Resolution No. 459-2001, "Amending the Proposed 2002-2004 Capital Program and Budget Establishing Unified Pay-as-You-Go Level Debt Service, Enhanced Environmental Land Preservation, Energy Conservation, Infrastructure Improvement Cost Containment Program," authorized \$13,000,000.00 for Capital Project No. 7177, Project Name: "Suffolk County Multifaceted Land Preservation Program" for fiscal year 2002.

This Legislature also finds and determines that the new ¼% County Drinking Water Protection Program, over the 13-year life of the Program, will generate \$118,761,280 for open space acquisitions and \$64,420,235.00 for the purchase of development rights for farmland.

This Legislature also determines that the County's investment in preserving Suffolk's natural environment by acquiring pine barrens, wetlands, beaches, woodlands, open space, parklands, and other environmentally sensitive lands has made Suffolk County one of the most desirable places to live because of the impact of such acquisitions on the aesthetics and quality of life in Suffolk County.

This Legislature further finds and determines that an additional commitment of \$75 Million in new moneys by the County of Suffolk to protect rapidly vanishing open space and farmland and to provide for hamlet parks and active recreational activities throughout the County are critical to the well being and quality of life of the residents of this County.

This Legislature further determines that the first-year impact of adopting this program would be approximately \$11.61 per average residential tax bill and \$210.00 per average residential tax bill over twenty (20) years.

This Legislature also finds that the transfer of development rights for County use or sale provides a mechanism to maximize the public purpose of this initiative by allowing the development rights on the lands purchased to be used to promote workforce housing development.

Therefore, the purpose of this law is to implement Suffolk County's carefully structured 26-year program of enhanced environmental protection narrowly targeted at unique environmental resources throughout Suffolk County which are vital to watershed, ecological, farmland, and aquifer protection; the preservation of rapidly dwindling open space throughout Suffolk County; the acquisition of land within the Central Pine Barrens Area; acquisition of farmland development rights, and the acquisition of the last vestiges of environmentally sensitive lands in the County via an amendment to the County Charter to authorize the issuance of \$75 Million in bonds under a program designed to save Suffolk's open space, farmland and hamlet parks and to provide for other County needs through the use of development rights from the lands acquired to foster the development of workforce housing.

**Section 2. Amendment to Suffolk County Charter.**

A new Article XXXVI of the SUFFOLK COUNTY CHARTER is hereby created to establish a Suffolk County Save Open Space (SOS), Farmland Preservation, and Hamlet Parks Fund to read as follows:

**ARTICLE XXXVI**

**Suffolk County Save Open Space (SOS), Farmland Preservation, and Hamlet Parks Fund**

**36-1. Suffolk County Save Open Space (SOS), Farmland Preservation, and Hamlet Parks Fund**

**(A.) Programmatic Components.**

In addition to, but separate and apart from the 1/4% sales and compensating use tax proceeds generated under Article XII of the SUFFOLK COUNTY CHARTER, separate and apart from the Suffolk County Community Greenways Fund under Article XII-A of the SUFFOLK COUNTY CHARTER, the criteria set forth for acquisitions paid for from such sales and compensating use tax proceeds, either directly or indirectly, the County Executive, County Legislature, and County

Comptroller are hereby authorized, empowered, and directed, regardless of any intervening circumstances to authorize, issue, appropriate, and expend Seventy-Five Million Dollars (\$75,000,000.00) in serial bonds of the County of Suffolk, via duly enacted Resolutions of the County of Suffolk, pursuant to Section 11.00(a)(21) of the NEW YORK LOCAL FINANCE LAW as follows:

1.) Thirty Million Dollars (\$30,000,000.00) shall be authorized, issued, appropriated, and expended for the acquisition of various parcels of land for open space preservation, including wetlands, woodlands, pine barrens, and other lands which are suitable only for passive, non-recreational uses, subject to such terms and conditions regarding the actual use of said land as may be imposed by resolution including, but not limited to, traditional pre-existing use of such land, anything in Section 1-7 of the SUFFOLK COUNTY CHARTER to the contrary notwithstanding, the proceeds of which bonds shall be appropriated for such land acquisitions as are determined to be eligible for acquisition, via duly enacted Resolution of the County of Suffolk, in accordance with the criteria set forth in the Exhibit "A" and any successor thereto attached hereto and made a part hereof;

2.) Ten Million Dollars (\$10,000,000.00) shall be authorized, issued, appropriated, and expended for the acquisition of various parcels of land for use as Hamlet Greens, Hamlet Parks, or Pocket parks with the effect of providing public spaces that reinforce community livability by enhancing the pedestrian-friendly nature of communities, including uses for outdoor activities, playgrounds, and other public gathering purposes, more commonly found in so-called Smart Growth Planning Concepts and/or for use for such other active parkland or community recreational needs as shall be determined via duly enacted resolution of the County of Suffolk, all subject to continued public access to such property, the proceeds of which bonds shall be appropriated for such land acquisitions as are determined to be eligible for acquisition via duly enacted Resolution of the County of Suffolk, in accordance with the procedures set forth in Exhibit "B" attached hereto and made a part hereof, after taking into consideration the advisory recommendations, if any, of the Suffolk County Planning Department and the Suffolk County Board of Trustees of Parks, Recreation, and Conservation, which Suffolk County Resolution shall also explicitly designate the authorized use of such land.

3.) Thirty-Five Million Dollars (\$35,000,000.00) shall be authorized, issued, appropriated, and expended for the acquisition of farmland development rights pursuant to and in accordance with the provisions set forth in Chapter 8 of the SUFFOLK COUNTY CODE or any successor provisions thereto. The proceeds of which bonds shall be appropriated for such farmland development rights acquisitions as are determined to be eligible for acquisition by duly enacted Resolution of the County of Suffolk in accordance with the criteria set forth in Exhibit "C" and any successor criteria thereto attached hereto and made a part hereof.

4.) The County Department of Planning, Division of Real Estate, or any successor entity thereto, pursuant to Section 119-o of the NEW YORK

GENERAL MUNICIPAL LAW, may enter into intermunicipal agreements with any Town and/or any Village located within the County of Suffolk, for any acquisitions proposed under subsections (1) and (2) of paragraph (A) of this Section occurring on or after the effective date of this Charter law, for the purpose of having the Town or Village conduct negotiations on behalf of the County of Suffolk for the acquisition of eligible parcels under the above-described program, to acquire fee simple absolute or a lesser interest (i.e. conservation easement), subject to the following terms and conditions:

- a.) The County Department of Planning, Division of Real Estate, or any successor entity thereto, shall make the final decision on any such negotiations;
- b.) The individuals or consultants designated by the pertinent Town or Village to conduct the negotiations shall act pursuant only to the instruction and supervision of the County Department of Planning, Division of Real Estate or any successor entity thereto;
- c.) The pertinent Town or Village shall not be reimbursed by the County of Suffolk for any expenses incurred in conducting such negotiations;
- d.) Appraisals made available by a Town or Village for the purpose of such acquisition may be used, if deemed cost effective and appropriate by the Division of Real Estate or any successor entity thereto; and
- e.) The individuals or consultants designated by the Town or Village to conduct the actual negotiation shall first be approved by the County Department of Planning, Division of Real Estate, or any successor entity thereto.

5.) The Nature Conservancy, Peconic Land Trust, and any other comparable not-for-profit organizations, designated by duly enacted Resolution of the County of Suffolk, are hereby authorized and empowered to provide appraisals and conduct negotiations for proposed acquisitions contemplated under subsections (1) and (2) of Paragraph (A) of this Section with the approval of and under the supervision of the Division of Real Estate, or any successor entity thereto, in the County Department of Planning.

6.) The full faith and credit of the County of Suffolk, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. There shall annually be levied on all the taxable real property of said County a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable. The principal and interest of this obligation shall not be paid from the proceeds of the 1/4% sales and compensating use tax authorized by Article XII of the SUFFOLK COUNTY CHARTER.



7.) In the event that subsections (1) and (2) of Paragraph (A) of this Section are not fully complied with, then the pertinent portion of such bond proceeds shall not be expended.

8.) The 2005 and subsequent fiscal years, if necessary, Capital Budget and Program shall be automatically amended, via technical resolution of the County of Suffolk, to conform to the authorized issuance of Seventy-Five Million Dollars (\$75,000,000.00) in serial bonds, as described above, anything in Article IV of the SUFFOLK COUNTY CHARTER or any other law to the contrary notwithstanding.

9.) The full amount of Seventy-Five Million Dollars (\$75,000,000.00) in serial bonds contemplated by this Article shall be authorized by the County of Suffolk, regardless of any intervening circumstances, via a duly enacted resolution of the County of Suffolk, no later than December 31, 2004. The full amount of Seventy-Five Million Dollars (\$75,000,000.00) in serial bonds shall be issued, appropriated, and expended by the County Comptroller, County Executive, and the County Legislature, regardless of any intervening circumstances, via duly enacted Resolutions and Administrative Actions of the County of Suffolk, no later than December 31, 2007.

**B.) Transfer of Development Rights.**

The County of Suffolk hereby reserves the right to dedicate and transfer development rights from land acquired under this law (exclusive of transactions involving farmland development rights), and hold for use for the sole purpose of providing workforce housing, as defined in Article XXXVI of the SUFFOLK COUNTY ADMINISTRATIVE CODE, pursuant to a program to be established by the Suffolk County Department of Planning and via subsequent duly enacted Resolution of the County of Suffolk. In each individual use or sale of such development rights, such use or sale shall be subject to approval by duly enacted Resolution of the County of Suffolk.

**C.) Management.**

The management, administration and day-to-day supervision of this program shall be provided by the Division of Real Estate, or any successor entity thereto, in the County Department of Planning, which Division shall be responsible for maintaining the official records of land acquisitions consummated and moneys expended pursuant to each of the funding components of this Article.

**Section 3. SEQRA Determination.**

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

**Section 4. Applicability.**

This law shall apply to funds available for allocation on or after the effective date of this law.

**Section 5. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 6. Form of Proposition.**

The proposition to be submitted at the next general election pursuant to Section 7 of this law shall be in the following form:

**Shall Resolution -2004, Amending the Suffolk County Charter to Authorize the Issuance of \$75 Million in County Bonds to Acquire Land for Open Space Preservation, Active Parkland, Farmland Development Rights, Environmental Protection Purposes, and Allow the Transfer of Development Rights, Be Approved?**

**Section 7. Effective Date.**

This law shall take effect immediately upon filing in the office of the Secretary of State if it is approved by an affirmative vote of the qualified electors of the County of Suffolk voting upon a proposition for its approval at the next general election in conformity with the provisions of Section 34 of the NEW YORK MUNICIPAL HOME RULE LAW. After approval by the electorate, this law, as well as any other law converted into a mandatory referendum pursuant to Section 34(4) of the NEW YORK MUNICIPAL HOME RULE LAW, by a vote of the County Legislature, may only be amended, modified, repealed, or altered by enactment of an appropriate Charter law subject to mandatory referendum in accordance with prevailing law.

\_\_\_\_ Underlining denotes addition of new language.

DATED:

APPROVED BY:

\_\_\_\_\_  
County Executive of Suffolk County

Date:

**SUFFOLK COUNTY OPEN SPACE RATING SYSTEM FOR LAND ACQUISITION**

**\* PRIMARY CRITERIA**

- **Special Features or Habitat Enhancements (30 Points)**
  - 5–Rare or endangered species, pursuant to Federal or State lists
  - 5–Unique land forms (e.g. Kettle Hole)
  - 5–River, stream, water body, or flood plain
  - 5–Marine or freshwater wetlands or Special Groundwater Protection Area (SGPA) or Critical Environmental Area (CEA)
  - 5–Classified or unique vegetation (i.e. New York State Natural Heritage Program Elements)
  - 5–Special view
  - 5–Multiple in any of the above
  
- B. Size or Shape (30 Points)**
  - 15 – Over 50 acres
  - 5 – Between 20 – 50 acres
  - 10 – Perimeter to area ratio less than one (bulky shape as opposed to strips)
  
- C. Proximity or Contiguity to Other Public Open Space (20 Points)**
  - 10 – Abutting or adjacent to County land
  - 5 – Abutting or adjacent to other protected land
  - 5 – Strategic parcel associated with further compatible acquisition
  
- D. Greenbelts, Trails, and Public Access (10 Points)**
  - 5 – Trail link or public access to shore or water body
  - 5 – Greenbelt link or buffer

**SECONDARY CRITERIA**

- E. Development Pressure (15 Points)**
  - 10 – Preliminary development plans filed, and zoning in place
  - 5 – Municipal zoning action pending (rezoning)
  
- F. Stewardship (5 Points)**
  - 5 – Adopt a park or intermunicipal agreement

\* Maximum possible score -----110 points  
Minimum score necessary for consideration for acquisition-----25 points

**EXHIBIT “A”**

**Suffolk County Active Parklands Acquisition**

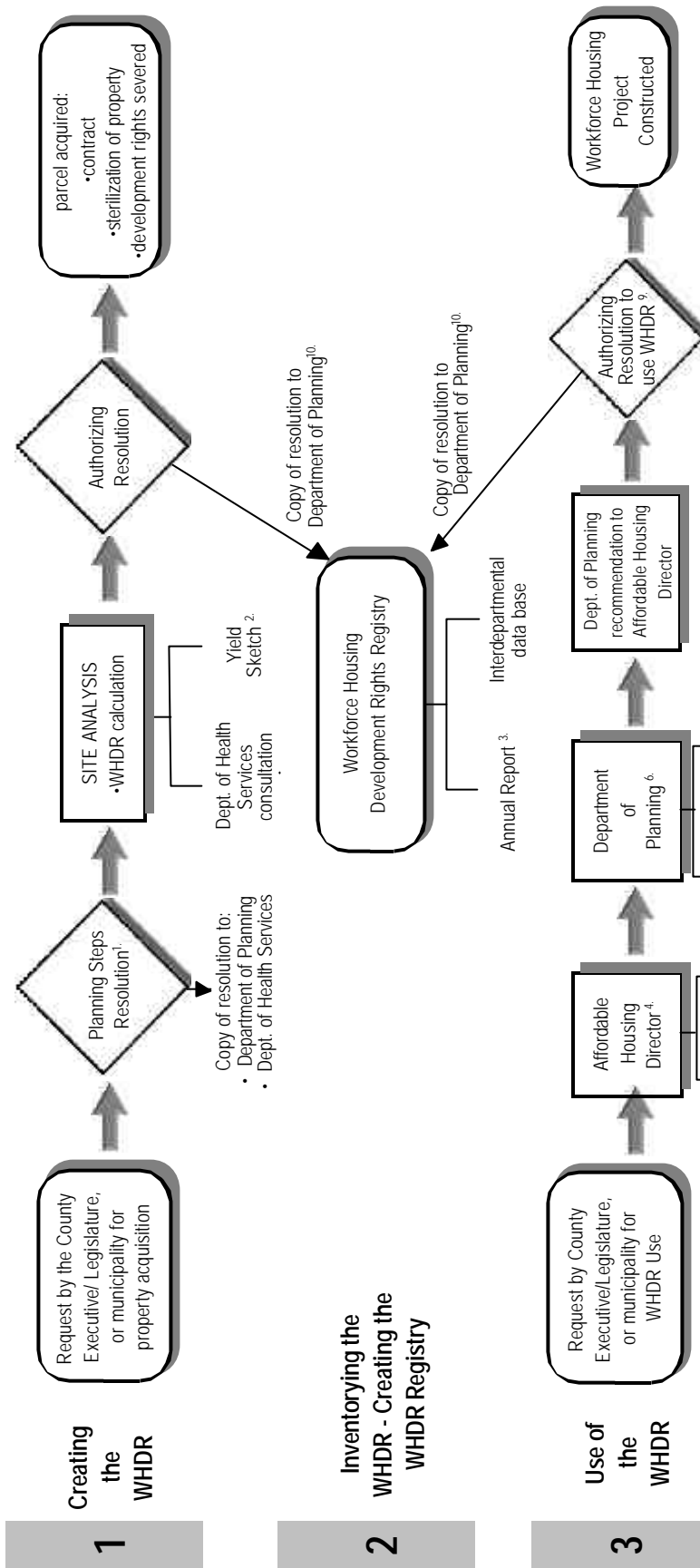
- A.) Funding may be authorized, issued, appropriated, and expended via duly enacted Suffolk County Resolution for the acquisition of various parcels of land for use as active parklands, except golf courses, in those instances in which a Town, Village, School District, and/or community organizations, has entered into a written binding agreement or commitment with Suffolk County to improve and maintain the property for the agreed upon use of the land for playgrounds; for use as a soccer field; for use as a football field; for use as a baseball field; for use for outdoor

concerts; for use for horseback riding or equine endeavors; and/or for use for such other community recreational needs as shall be determined via duly enacted resolution of the County of Suffolk, all subject to continued public access to such property, which Suffolk County Resolution shall also contain approval of such binding commitment or agreement.

- B.) In those instances in which a community organization proposes to enter into a written binding agreement or commitment with the County of Suffolk requiring a financial contribution of Twenty-five Thousand Dollars (\$25,000.00) or more by such community organization, the County Department of Parks, Recreation, and Conservation and the Legislative Office of Budget Review shall review the financial capability of such community organization to provide both the proposed short-term capital improvements submitted as part of the proposal and the financial capability of the community organization to carry out the proposed project from the standpoint of improving and maintaining the property in a timely fashion on a long-term basis. Such review shall include a review of the financial statements submitted by the community organization for the past five (5) years, as well as current financial statements. The Legislative Office of Budget Review shall issue a written report to the County Executive and to each member of the County Legislature no later than sixty (60) days subsequent to the receipt of such proposal from such community organization stating its findings and determinations as to such financial capability.

EXHIBIT "B"

Suffolk County Save Open Space Bond Act  
Workforce Housing Transfer of Development Right Program



- Specific authorization for the Department of Planning to analyze the potential WHDR yield from the subject parcel should be included in the planning steps resolution.
- The use of development rights generated from this program shall result in a "no net increase" (1-to-1 reuse of lots) or a reduction of the overall density of housing as compared to that which would occur if the acquired protected property were to be built as of right. The county will prepare or cause to be prepared a yield sketch pursuant to local zoning to demonstrate the potential actual yield of WHDRs.
- The registry will be a computerized database and will be departmental in nature. The Department of Planning will produce an annual report describing the activities of the WHDRs inventoried.
- Request to utilize or retire a WHDR be directed to the Office of the Affordable Housing Director.
- The use of WHDRs generated from this program would be expedited through the completion of and conformance to sub-regional plan(s) that have been approved by local municipalities and designated through an intergovernmental agreement with the County.
- For the purposes of the WHDR program, the Department of Planning will weigh the request to use and retire the WHDR, as presented by the Affordable Housing Director, against criteria established and make recommendations back to the Affordable Housing Director.
  - The use of development rights generated from this program is for the sole purpose of permitting
  - development of affordable rental and ownership workforce housing to individuals.
  - Where a for-profit developer is to be used, any profit realized shall be in accordance with New York State Affordable Housing Corporation guidelines.
  - The workforce homes created through the use of development rights generated from this program shall remain as workforce homes in perpetuity.
  - The development rights generated from this program shall not be used (emphasis added) on properties contained in the Master List of Proposed County Open Space Acquisitions, have received an authorized planning steps resolution, or have been identified for acquisition, protection, or preservation on another state or local government approved and adopted plan or list.
  - Projects that are within an existing downtown, in designated nodes of retail/ commercial corridors, existing retail centers, hamlet centers, on in-fill parcels and previously developed properties or other areas targeted for mixed-use development or redevelopment such as Transit Oriented Development (TOD) or Traditional Neighborhood Development (TDN) shall be given priority.
  - Each individual use of a WHDR(s) shall be subject to the approval of the County Legislature and the County Executive.
  - Planning adjusts the WHDR Registry.
- The use of development rights generated from this program is for the sole purpose of permitting



The following are terms defined for use within the context of this report.

**Alienation** for the purpose of this program, is the transfer of any development rights from Suffolk County-owned real property to another parcel.

**Authorizing Resolution** - The acquisition of a parcel of land by the County is subject to the approval of the County Legislature and the County Executive. Following the Planning Steps phase and after deliberation by the Legislature, the County Executive then offers final approval or disapproval. An approval is in the context of an Authorizing Resolution.

**Development Right**, as authorized by subsection 247 of the New York State General Municipal Law, can be defined as the unused development potential of a parcel of land.

**Fatal Flaw Criteria** - These are the criteria which must be met in order to allow a project to receive WHDRs.

- The project must provide affordable rental and/or ownership workforce housing.
- Purchase price of homes must be \$250,000 or less and rental units must be affordable.
- Profit realized by for-profit developers must be in accordance with NYS Affordable Housing Corporation guidelines.
- Homes created with WHDRs must remain workforce homes in perpetuity within the guidelines of Article 36 of the SC Administrative Code.
- WHDRs shall not be used to develop properties: contained in the Master List of Proposed County Open Space Acquisitions; have received an authorized planning steps resolution; or, have been identified for acquisition, protection, or preservation on another state or local government approved and adopted plan or list.
- The use of WHDRs will continue and/or expand groundwater preservation initiatives.

**Planning Steps Resolution** - The land acquisition process in Suffolk County typically begins with a Planning Steps Resolution introduced to the County Legislature. When approved, this resolution authorizes the County Department of Planning and the Division of Real Estate to begin the appraisal and analysis process and to commence negotiations.

**Smart Growth Criteria** - Smart Growth Criteria include projects that are:

- within an existing downtown,
- in designated nodes of retail/commercial corridors, existing retail centers, hamlet centers,
- on infill parcels and previously developed properties, or
- other areas targeted for mixed-use development or redevelopment such as Transit Oriented Development (TOD) or Traditional Neighborhood Development (TND).

**Smart Growth** - Anticipating and providing for sensible growth, balancing jobs and economic development with the preservation of the natural environment and the historical community fabric.

**Sub Regional Plan (SRP)** - A land use management plan for a specified area (i.e., a "subregion") which allows for "transfer of density" to attain regional SCSC Article 6 density requirements. The subregional plan must be duly adopted under the requirements of the SCDHS TDR Standards, which include the requirement of SEQRA review. When consistent with a subregional plan, a transfer of development rights can be effected "as of right" (i.e., no Board of Review variance required).

**Workforce Housing Development Right (WHDR)** is a form of development right specifically for use

in creating workforce homes. A WHDR essentially represents an “equivalent dwelling unit,” the waste-water-generating equivalent of a single-family residence, which has a wastewater design flow of 300 gallons per day. WHDRs are intended only for “waste water credits,” to redeem for additional density for the provision of workforce housing, otherwise not allowed by the Suffolk County Sanitary Code Article 6. All other requirements, including Town zoning and SEQRA, must be independently met, irrespective of redemption of WHDRs.

**Workforce Housing Development Right Program Registry (WHDR Program)**- The registry is a database and file system administered and maintained by the Suffolk County Department of Planning. The registry is the depository for all WHDRs, provides the accounting of the pool of WHDRs and tracks the rights from creation through utilization to retirement.

**Yield Map/ Sketch** - A yield map is a scale map which depicts roadways, solutions to drainage, avoidance of environmentally sensitive and unbuildable areas. The yield map is typically based on local zoning, particularly minimum lot area and dimensional setback requirements. The yield map is the most accurate depiction of the total number of possible building lots and their configuration.



LAWS OF SUFFOLK COUNTY, NEW YORK, v67 Updated 12-15-2004  
PART II ADMINISTRATIVE CODE  
ARTICLE XXXVI, Affordable Housing [Added 6-27-2000 by L.L. No. 13-2000; amended it its entirety 6-28-2004 by L.L. No. 17-2004]

**ARTICLE XXXVI, Affordable Housing [Added 6-27-2000 by L.L. No. 13-2000; amended it its entirety 6-28-2004 by L.L. No. 17-2004]**

NOTE: Local Law No. 17-2004 also provided as follows:

Section 1. Legislative intent.

This Legislature hereby finds and determines that Local Law No. 13-2000 established the Suffolk County Affordable Housing Program, thereby providing a comprehensive policy to enable the County to provide affordable housing opportunities directly and through other municipalities.

This Legislature hereby finds that Local Law No. 13-2000 has been a positive step in making affordable housing available to many segments of Suffolk County's population as follows:

- A. By providing an inventory of tax-default and other surplus parcels, both vacant and improved, directly and through town and village participation where practicable in carrying out a Countywide affordable housing program;
- B. By providing County-owned parcels to municipalities participating in and implementing programs of affordable housing, at below-market values, for individuals who would otherwise be unable to purchase homes in the Long Island real estate market; and
- C. By providing funding through the use of capital bond proceeds in connection with the affordable housing program.

This Legislature further finds that in the last four years the need for affordable housing has become more acute and that sharply rising housing costs have created an untenable situation for the County's residents and employers which has resulted in the outmigration of young adults, long commutes on overcrowded highways and an increase in the number of families, including seniors, forced to spend more than 35% of their income on housing.

This Legislature further finds that it is critical to the continued viability of the local economy to retain the County's young workforce and senior community by increasing flexibility and streamlining the existing Suffolk County Affordable Housing Program to assure it can be easily used and implemented to provide increased housing choices.

Therefore, the purpose of this law is to increase affordable housing opportunities by providing additional housing and funding options and to further streamline the process by which individuals and municipalities may work with the County to achieve these goals.

Section 3. Applicability.

This law shall apply to all conveyances and transactions occurring on or after the effective date.

**§ A36-1. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**AFFORDABLE HOUSING** -- Housing, including workforce housing, available to individuals and families meeting certain income guidelines based on the U.S. Department of Housing and Urban Development (HUD) area median incomes and as further defined in § A36-2A, B and C below.

**CONVEYANCE** -- The transfer by deed of any parcel for any municipally run, funded, and/or managed affordable housing program, with or without nonprofit agencies, pursuant to New York State General Municipal Law § 72-h.

**DIRECTOR** -- The Director of Affordable Housing within the Suffolk County Department of Planning.

**FIRST-TIME HOMEBUYER** -- An individual or family unit that has not owned a home during the three-year period before the purchase of a home with the permitted exceptions delineated in the HUD Home Investment Partnership Regulations, as they are amended from time to time, including, but not limited to, exceptions for displaced homemakers, single parents and mobile home owners.

**PARCEL** -- A separately assessed lot, parcel, piece or portion of real property, with or without improvements erected thereon, owned by the County of Suffolk.

**WORKFORCE HOUSING** -- Affordable housing that is subsidized by the County pursuant to § A36-2C of this article and available to the County's workforce that meets income guidelines based on HUD area median incomes and as further defined in § A36-2A, B and C of this article.

**WORKFORCE HOUSING SUBSIDY (WHS)** -- The funding made available by Suffolk County for the acquisition, construction and/or reconstruction of parcels pursuant to § A36-2C of this article.

**§ A36-2. Suffolk County housing opportunities programs.**

A. First-time homebuyers' auction:

(1) Habitable improved parcels shall be offered for sale at public auction exclusively to first-time homebuyers whose income does not exceed 80% of the HUD established median income limits for the Nassau-Suffolk Primary Metropolitan Statistical Area (PMSA) adjusted by family size.

(2) Deed restrictions.

(a) Parcels transferred pursuant to this section must be to a first-time homebuyer and shall contain deed restrictions as follows:

[1] Property must remain the principal residence of the firsttime homebuyer for a period of at least five consecutive years; and

[2] Income of first-time homebuyer must not exceed 80% of the HUD established median income limits for the Nassau-Suffolk PMSA adjusted by family size.

[3] Failure to comply with any of the restrictions herein shall result in the property reverting to Suffolk County.

B. New York State General Municipal Law § 72-h transfer program.

(1) Designated uninhabitable improved parcels and vacant parcels shall be transferred by the County to participating municipalities for nominal consideration and shall be constructed and/or reconstructed for affordable housing purposes. These parcels shall be subject to covenants and restrictions requiring cooperating municipalities to transfer these parcels to eligible individuals whose income does not exceed 80% of the HUD established limits for the Nassau-Suffolk PMSA adjusted by family size.

(2) Deed restrictions.

(a) Parcels transferred pursuant to this section shall be to a first-time homebuyer and shall contain deed restrictions as follows:

[1] For owner-occupied housing:

[a] Property must remain the principal residence of owner for a period of at least five consecutive years;

[b] Income of first-time homebuyer must not exceed 80% of the HUD established median income limits for the Nassau-Suffolk PMSA adjusted by family size;

[c] Subsidized purchase price of home shall not exceed 60% of median sales price for Suffolk County based on State of New York Mortgage Agency (SONYMA) guidelines; and

[d] Construction must be completed and the housing occupied by eligible purchasers within three years of transfer unless an extension of time is granted in writing by the Director after good cause is shown. Said extension shall not exceed two two-year extensions unless approved by duly enacted resolution.

[e] Failure to comply with any of the restrictions herein shall result in the property reverting to Suffolk County.

[2] For rental housing:

[a] Income of purchaser must not exceed 80% of the HUD established median income limits for the Nassau-Suffolk PMSA adjusted by family size;

[b] Rent shall not exceed HUD established fair market rent for the Nassau-Suffolk PMSA based on bedroom size;

[c] Home must meet local building and zoning codes;

[d] Construction must be completed and the housing occupied by eligible tenants within three years of transfer unless an extension of time is granted in writing by the Director after good cause is shown. Said extension shall not exceed two two-year extensions unless approved by duly enacted resolution; and

[e] Property must remain in the possession of tenants who meet the income limits and rental limits set forth in § A36-2B(2)(a)[2][a] and [b] above for at least 10 consecutive years after the transfer date.

[f] Failure to comply with any of the restrictions herein shall result in the property reverting to Suffolk County.

(3) In situations where federal or state grant funds are used to finance construction under the § 72-h program, federal and state requirements must be met. However, in the event the County requirements are more stringent, then the County requirements will prevail.

(4) Reporting and management requirements.

(a) Any municipality that accepts title pursuant to New York State General Municipal Law § 72-h to a parcel from the County of Suffolk for use in an affordable housing program shall, as a condition precedent to the receipt of a deed of conveyance of such parcel, agree in writing with the County of Suffolk to provide a report no later than December 31 of each year to the Director, including, but not limited to, the exact and precise use to which any such parcels have been put and the sales price generated by initial purchase of such affordable homes.

(b) The report set forth at § A36-2B(4)(a) above shall explicitly state whether or not the parcel has been utilized for affordable housing purposes and whether or not the restrictive covenants to ensure such utilization contained in any such deeds of conveyance have been adhered to.

(c) The Director shall then determine whether or not any restrictive covenants contained in the deed of conveyance to the municipality, state government, federal government, or any agency or department thereof, have been breached or violated.

(d) In the event that the Director determines that any such covenants have been breached or violated, he or she shall advise the County Department of Law and the County Legislature as to the nature of such breach or violation and request authorization for such action as he or she shall deem necessary to enforce such covenant or to enjoin or to correct such breach or violation.

(5) Conditions of County transfer:

(a) The consideration paid to the County of Suffolk for any conveyance under § 72-h of the New York General Municipal Law shall be a nominal consideration not to exceed \$10 for any parcel.

(b) Upon such payment of nominal consideration and actual conveyance of the parcel(s), all subsequent grantees shall comply with all applicable state, federal, and local regulations pertaining to the price, income eligibility and marketing standards for such affordable housing programs.

C. Workforce housing program.

(1) Funding initiatives. Funding initiatives by the County through the use of capital bond proceeds (WHS) shall include funding for:

(a) The acquisition of land by the County in conjunction with a municipality, which shall include both vacant parcels and improved parcels;

(b) The construction and/or reconstruction of parcels transferred to participating municipalities pursuant to New York State General Municipal Law § 72-h;

(c) Infrastructure improvements in conjunction with municipalities, which shall include, but not be limited to, roads, parking, sewers, water, sidewalks, street lighting and appurtenant landscaping; and

(d) The acquisition by the County of conservation easements.

(2) Program requirements.

(a) The following provisions are applicable to § A36-2C(1)(a), (b) and (c) above:

[1] A municipality must enter into a development agreement with the County, which shall require the participating municipality to offer incentives, such as density bonuses, fast-track approvals and fee waiver, and/or financial assistance, such as community development block grant funds, industrial development bonds and/or tax credits, to the proposed affordable housing development prior to the acquisition of a parcel.

[2] Prior to such acquisition or funding, the participating municipality shall, by resolution or other legislative act, approve the development agreement which shall specify the development plan; the proposed builder, which may be a not-for-profit corporation or a for-profit builder; the number of units of housing; the targeted occupants; the method of selecting such occupants; and the sales/rental prices to be paid by the occupants. If a for-profit developer is utilized, then the amount of profit realized by the builder must conform to New York State Affordable Housing Corporation (or its successors') guidelines.

(b) The following provision is applicable to § A36-2C(1)(d) above:

[1] The property owner must enter into an agreement with the County requiring the use of the parcel(s) for workforce housing purposes and specifying the proposed builder, which may be a not-for-profit corporation or a for-profit builder; the number of units of housing; the targeted occupants; the method of selecting such occupants; and the sales/rental prices to be paid by the occupants. If a for-profit developer is utilized, then the amount of profit realized by the builder must conform to New York State Affordable Housing Corporation guidelines, or any successor thereto.

(c) Deed restrictions for all housing subsidized pursuant to this section must reflect the

[1] Any deed restrictions set forth in § A36-2B of this article that are more restrictive than those set forth in this section shall take precedence.

[2] Both owner-occupied and rental housing will be eligible to receive assistance. Preference will be given to projects of 10 or more units.

[3] Income limits.

[a] Fifty percent of all units, including owner-occupied and rental housing units, must, at a minimum, be occupied by persons and families whose income does not exceed 120% of the HUD established median income limits, adjusted by family size for the Nassau-Suffolk PMSA, and 50% of all units must, at a minimum, be occupied by persons and families whose income does not exceed 80% of the HUD established median income limits, adjusted by family size, for the Nassau-Suffolk PMSA.

[b] In situations where federal or state funding is utilized to subsidize development costs, applicable federal and state income requirements must be met. However, if the County requirements are more stringent, then the County requirements will prevail.

[4] Affordability for owner-occupied housing. The maximum unsubsidized sales price of an owner-occupied home cannot exceed the nontargeted maximum purchase price established by SONYMA for Suffolk County. The maximum unsubsidized purchase price includes all development costs and land value. In addition, at least 70% of the units in a development must have a maximum unsubsidized purchase price that does not exceed 80% of the SONYMA nontargeted purchase price.

[5] Occupancy for owner-occupied housing. Home ownership units must be owner-occupied and the principal residence of the occupant for at least five consecutive years. Failure to meet this requirement will result in the repayment to the County equal to the value of the subsidy provided.

[6] Affordability for rental units. Rental units shall have a maximum rent equal to the fair market rent adjusted for bedroom size established by HUD for the Nassau-Suffolk PMSA and must remain affordable for at least 10 consecutive years or until the WHS is repaid to the County, whichever is later,

D. Repayment.

- (1) All land acquired and housing subsidized pursuant to § A36-2C shall be subject to:
  - (a) Covenants and restrictions governing the use of the parcel(s) and housing thereon; and
  - (b) Repayment of the WHS pursuant to the terms set forth in any and all funding documents when the ownership/rental requirements and/or affordability requirements contained in the development/rental agreement(s) and deed are not met.
- (2) Under certain circumstances, including but not limited to affordability requirements in excess of 30 years, repayment of the WHS may be forgiven.

E. Monitoring and compliance.

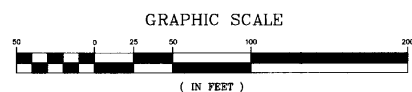
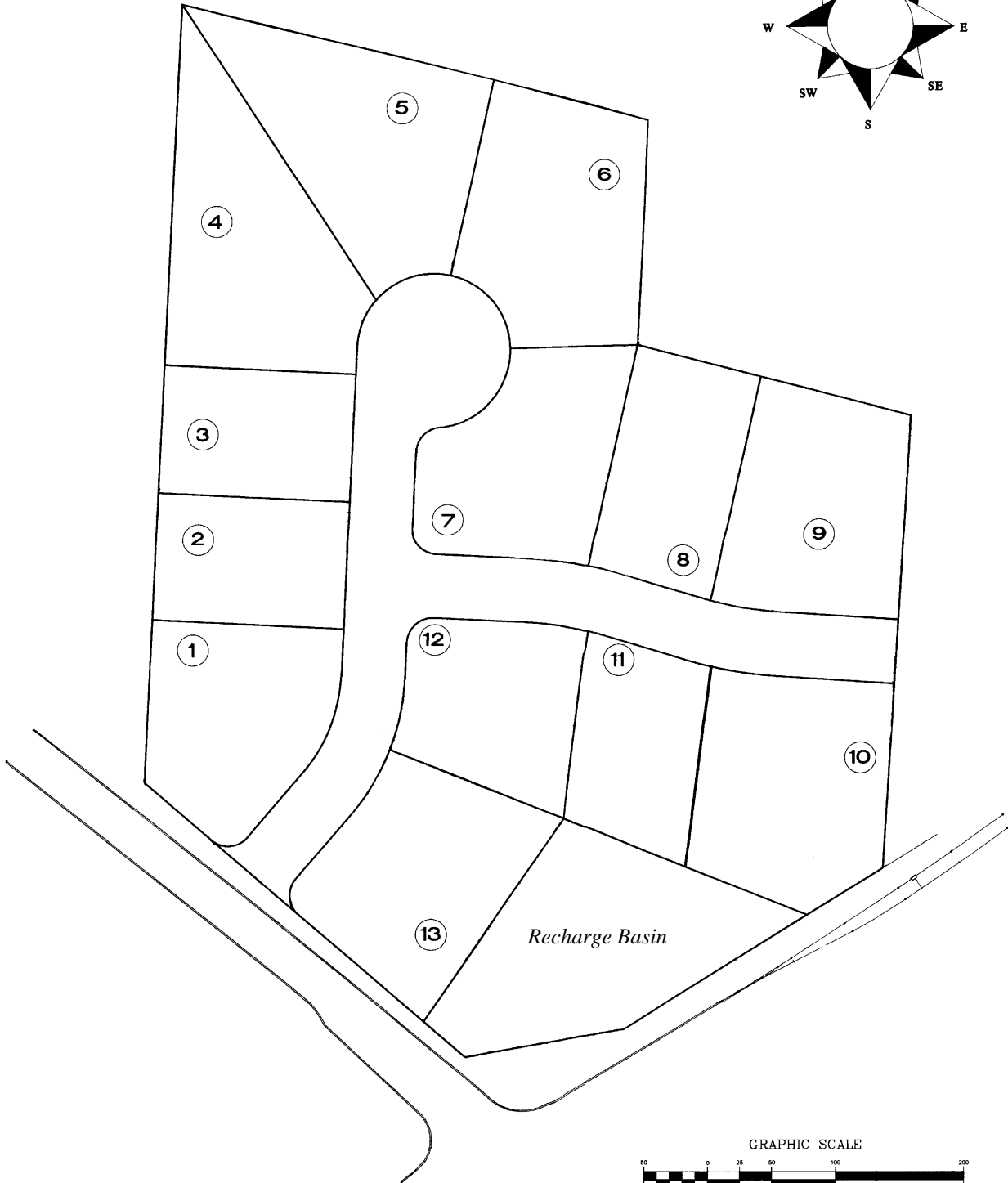
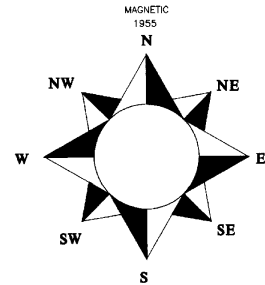
- (1) The County shall administer the requirements of this article as follows:
  - (a) The Director shall develop and draft guidelines, rules and procedures necessary and appropriate to ensure compliance with this article.
  - (b) In addition to overseeing the reporting requirements set forth in § A36-2B of this article, the Director shall monitor all aspects of program and procedural compliance with the Suffolk County housing opportunities programs described herein.

**§ A36 - 3. Prior laws.**

Any provisions contained in Resolution No. 508-1989 that are inconsistent with this law shall be construed as being superseded by this law for the purposes of implementing the provisions of this law.

**WORKFORCE HOUSING DEVELOPMENT RIGHTS  
YIELD SKETCH**  
Suffolk County Department of Planning

Total Acres	8.16
Zoning	R-15 residence
Number of Workforce Housing Development Rights	13







The Suffolk County Save Open Space Bond Act Workforce Housing Development Right Rating System (WHDR Rating System) is based upon Smart Growth principles. The fundamental premise of Smart Growth is to reduce development sprawl and to promote development where infrastructure and services exist. These principles as well as criteria and a rating system were proposed as part of two publications of the Suffolk County Department of Planning:

- *Smart Growth Policy Plan for Suffolk County*, and
- *Suffolk County Smart Growth Committee Report: Analysis and prioritization of the Recommendations of the Smart Growth Policy Plan for Suffolk County*.

The WHDR Rating System was derived from the *Smart Growth Matrix* included in the *Suffolk County Smart Growth Committee Report*. The WHDR Rating System includes the following overarching principles of Smart Growth from the *Smart Growth Matrix* :

- **Protection of Community Character** - Regarding predominant land uses, population density and relation between residential and nonresidential areas.
- **Community Appearance** - The proposed use encourages land uses that link economic development decisions with environment and quality of life, and protect the property values of its residents
- **Compatibility of Uses** - Proposed use should be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
- **Traffic Generation** - Proposed use encourages efficient development that is pedestrian-friendly, is attractive, reduces automobile dependency, provides transportation alternatives, is focused around existing or newly designed transportation centers, provides for the traffic generating characteristics of various land uses and addresses the adequacy of existing and proposed thoroughfare facilities.
- **Community Facilities** - The proposed use encourages a sufficiency of community facilities to meet the needs of the residents of the neighborhood, which includes a natural diversity of housing types, shops, work places, schools, parks and civic facilities essential to the daily life of its residents, that enable citizens from a wide range of age groups, ethnic backgrounds, and economic levels to live within the neighborhood boundaries and interact.

The WHDR Rating System is a modification of the *Smart Growth Matrix*. The WHDR Rating System will enable a grading and ranking of requests to utilize WHDRs. Requests achieving a “passing” grade will be selected for awarding of the WHDR(s). In the eventuality that demand for WHDRs exceeds the supply, the limitation on available rights would necessitate awarding rights by grade as WHDRs become available.



COUNTY OF SUFFOLK



STEVE LEVY  
SUFFOLK COUNTY EXECUTIVE

SUFFOLK COUNTY DEPARTMENT  
OF HEALTH SERVICES  
DIVISION OF ENVIRONMENTAL QUALITY

# TRANSFER OF DEVELOPMENT RIGHTS STANDARDS

BRIAN L. HARPER, M.D., M.P.H.  
COMMISSIONER OF HEALTH SERVICES

VITO MINEI, P.E.  
DIRECTOR OF ENVIRONMENTAL QUALITY

ISSUED SEPTEMBER 30, 1995

## STANDARDS FOR ARTICLE 6

### TRANSFER OF DEVELOPMENT RIGHTS

#### General

Article 6, Sections 760-605.C, 760-605.D, 760-607.E and 760-607.F, include provisions to permit the use of transfer of development rights (TDR) that comply with specific criteria.

Article 6 establishes eight Groundwater Management Zones with specific permitted densities in order to protect the integrity of the groundwater where wastewater is discharged through on-site disposal systems. In sewerred areas, Article 6 provides no density requirements as long as a sewage treatment plant is provided. Therefore, any number of TDR credits could be transferred into a sewerred area; it remains a local planning and zoning decision as to the acceptable numbers.

In areas without sanitary sewers, on-site systems will be permitted in accordance with the following development density criteria:

#### A. TDR – Central Pine Barrens Comprehensive Land Use Plan

The following standards apply when transfers are made using Pine Barrens Credits, pursuant to Environmental Conservation Law Article 57 and the Central Pine Barrens Comprehensive Land Use Plan. Projects involving transfers of development rights that meet the criteria below will not be required to obtain a variance from the Suffolk County Department of Health Services Board of Review.

The table below summarizes the minimum allowable lot sizes (square feet) in receiving zones:

	<u>Groundwater Management Zone</u>							
	<u>I</u>	<u>II</u>	<u>III</u>	<u>IV</u>	<u>V</u>	<u>VI</u>	<u>VII</u>	<u>VIII</u>
Minimum Lot Size	20,000	20,000	20,000	20,000	40,000	40,000	20,000	20,000

1. Transfers within Zone III for single-family residential subdivisions or developments and construction projects must have a minimum lot size of 20,000 square feet or equivalent. Public water must be provided to the TDR receiving sites and, where necessary, to downgradient areas that may be impacted by the TDR development project. The department will determine the extent of public water extension required.
2. Transfers permitted between Groundwater Management Zones:
  - a. From Zone III to Zones I, II, IV, VII, VIII – Single-family residential subdivisions or developments and construction projects in these five receiving zones must have a minimum lot size of 20,000 square feet or equivalent. Public water must be provided to the TDR receiving sites and, where necessary, downgradient areas that may be

impacted by the TDR development project. The department will determine the extent of public water extension required.

- b. From Zone III to Zones V and VI – Single-family residential subdivisions or developments and construction projects in these zones must have a minimum lot size of 40,000 square feet or equivalent.

#### B. TDR – Within the Same Groundwater Management Zone (Other Than Pine Barrens Plan)

The following standards apply when transfers are made between two properties within the same Groundwater Management Zone; these standards are not applicable where transfers are made using Pine Barrens Credits. Transfers of development rights that meet all of the following criteria will not be required to obtain a variance from the Suffolk County Department of Health Services Board of Review:

- TDR proposals must conform to a land use management plan, or portion thereof, approved by a town or village, which has been reviewed in conformance with SEQRA requirements, and which establish, on a technical/scientific basis, that such plan is in harmony with the intent of Article 6.
- The land-use plan must contain measures to limit nitrogen loading to groundwaters by placing restrictions on the use of fertilizers or by other appropriate means.
- TDR credits must be determined based upon a yield map or other documentation of the sending area acceptable to the Suffolk County Department of Health Services.
- The applicant must specify how the sending parcels for which transfer credits are being requested will be protected from future development (e.g., by dedication to county, town nature preserve, Nature Conservancy), and shall provide sufficient documentation.
- If the parcel for which transfer credits are being requested is going to be donated, then the applicant must contact the Suffolk County Department of Planning to obtain information on appropriate areas that may be suitable for the transfer program. If suitable sites are found, then the applicant must give the property, at no cost to the County, other municipality or non-profit private group (e.g., Nature Conservancy), with the restriction that the property be left as open space or nature preserve. Approval of the TDR sending site will be at the sole discretion of the Suffolk County Departments of Planning and Health Services.
- The applicant must pay all costs associated with obtaining necessary approvals and deed transfers, including, but not limited to, legal land title searches, title insurance, payment of outstanding property taxes, and environmental audits.
- The sending parcel for which transfer credits are being requested must be located in the same township as the receiving site to be developed.

- The maximum allowable sanitary discharge at the site to be developed (receiving area) must be limited to no more than two times Article 6 limits.
- Sanitary systems must conform to all department design standards with regard to sizing, separation distances, etc.
- Public water service must be provided to the TDR receiving sites and, where necessary, downgradient areas which may be impacted by the TDR development project. The department will determine the extent of public water extension required.
- The project must be in compliance with all village, town, state, and federal environmental or other regulations.

#### Variance or Waiver

An application for a variance or waiver of these standards will be considered under the criteria set forth in Suffolk County Sanitary Code Section 760-609.

#### APPROVAL BY THE COMMISSIONER OF HEALTH SERVICES

In accordance with Article 2 and Article 6 of the Suffolk County Sanitary Code, the foregoing are the standards of the Suffolk County Department of Health Services for Transfer of Development Rights. These standards are effective September 30, 1995.

Mary E. Hibberd, M.D., M.P.H.  
Commissioner of Health Services  
Suffolk County

2/23/04





SUFFOLK COUNTY  
DEPARTMENT OF  
PLANNING

**Steve Levy**  
SUFFOLK COUNTY EXECUTIVE