

2007-672.

RESOLUTION SCHEDULING SIMULTANEOUS PUBLIC HEARINGS TO CONSIDER ADOPTING LOCAL LAW INTRODUCTORY NUMBER 45 - 2007 AMENDING THE CODE OF THE TOWN OF HUNTINGTON TO ADD CHAPTER 172 (LAND CONSERVATION), ARTICLE I (TRANSFER OF DENSITY FLOW RIGHTS) AND ACCEPTING THE DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (DGEIS) PURSUANT TO SEQRA

Resolution for Town Board Meeting dated: November 7, 2007

The following resolution was offered by Supervisor Petrone

and seconded by: **COUNCILWOMAN BERLAND**

WHEREAS, the Town Board has been advised by the Suffolk County Department of Health Services (SCDHS) that unless a municipal transfer of density flow rights program exists, Huntington is subject to receiving transfers of flow rights from outside the Town without the Town Board's express consent; and

WHEREAS, the Town Board wishes to establish a policy and procedure that will apply to the transfer of density flow rights in the Town of Huntington to allow protection of natural resources and orderly development consistent with the Town Comprehensive Plan and existing zoning, while meeting standards established in the Suffolk County Sanitary Code, to enable development in accordance with specific zoning classifications and consistent with SCDHS Transfer of Development Rights (TDR) Standards on a receiving property; and

WHEREAS, the Town Board recognizes the potential of a Transfer of Density Flow Rights Program (TDFR) as an open space conservation tool and a responsible economic incentive; and

WHEREAS, the proposed action is consistent with the Comprehensive Plan and Town Board-adopted Principles of Smart Growth and Livability; and

WHEREAS, the Department of Planning and Environment has prepared a Draft Generic Environmental Impact Statement (DGEIS) for the proposed TDFR Program; and

WHEREAS, this action is classified Type I pursuant to SEQRA as it involves the adoption of a policy program (supportive of a County comprehensive resource management plan) and the Draft Generic Environmental Impact Statement has been reviewed by an in-house staff work group and the Suffolk County Department of Health Services and is recommended for acceptance and filing in accordance with NYCRR Part 617.

NOW THEREFORE

THE TOWN BOARD

RESOLVES, that the proposed Transfer of Density Rights Program will meet the objectives of protecting the natural and scenic qualities of open land and enhancing areas of special historical,

cultural, or aesthetic value, and should serve the purpose of conveying rights from environmentally-sensitive property to an area with associated infrastructure to support increased density consistent with zoning; and

BE IT FURTHER

RESOLVED, that the Town Board, as lead agency, hereby issues a Positive Declaration pursuant to SEQRA; accepts the DGEIS; and directs filing of the determination of significance and the DGEIS for the purpose of commencing public review on the proposed Transfer of Density Rights Program; and

BE IT FURTHER

RESOLVED, that the Town Clerk is hereby directed to distribute a copy of this resolution together with all supporting documents to the Suffolk County Planning Commission for its review pursuant to §239-m of New York State General Municipal Law and the Suffolk County Administrative Code; and

HEREBY SCHEDULES a public hearing for the 4th day of ~~DECEMBER~~, 2007 at ~~7:00~~.m. at Town Hall, 100 Main Street Huntington, New York, to consider adopting Local Law Introductory Number 45 - 2007 amending the Code of the Town of Huntington so as to add Chapter 172 (Land Conservation), Article I (Transfer of Density Flow Rights) as follows and to accept a Draft Generic Environmental Impact Statement pursuant to SEQRA for the purpose of commencing public review thereon:

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF HUNTINGTON AS FOLLOWS:

LOCAL LAW INTRODUCTORY NO. 45 - 2007
AMENDING THE CODE OF THE TOWN OF HUNTINGTON TO ADD CHAPTER 172
(LAND CONSERVATION), ARTICLE I (TRANSFER OF DENSITY FLOW RIGHTS)

Section 1. Amendment to the Code of the Town of Huntington so as to add Chapter 172 (Land Conservation), ARTICLE I (Transfer Of Density Flow Rights) to read as follows:

CHAPTER 172
LAND CONSERVATION

ARTICLE I
Transfer of Density Flow Rights

§ 172-1 Legislative Intent

The Town Board recognizes that there are several conservation tools that may benefit the preservation of natural open space, while encouraging responsible economic development. This Article shall embrace such programs and policies that serve to accomplish both objectives. It is the intent and purpose of this article to implement land use policies adopted by the Town Board in conjunction with the update of the Huntington Comprehensive Plan with

specific reference to the conservation of open space, provision of affordable/workforce housing, the support of existing industry, and the necessary and appropriate economic development of the community, particularly for in-fill and Brownfields projects. This legislation shall serve to diminish residential sprawl and enable more concentrated development consistent with town zoning and the Principles of Smart Growth and Livability.

§ 172-2 Definitions

Definitions. For the purposes of this article, the following terms and words shall have the meanings indicated:

DENSITY FLOW RIGHTS – the rights permitted to a lot, parcel, or area of land pursuant to the Suffolk County Sanitary Code for the specific hydrogeological (groundwater recharge) zone in which the land is situated. Density Flow Rights differ from development rights that are defined in § 198-118.2 of Town Code, which are tied to zoning specifications and the transfer thereof allows yield on a receiving site to exceed zoning requirements.

DENSITY RIGHTS BANK – a depository comprised of (1) a database maintained by the Department of Planning and Environment that catalogues density flow rights acquired and/or redeemed by the Town of Huntington as public party and/or private party transfers and (2) a trust-in-agency account into which deposits are made upon sale of publicly-held flow rights and from which withdrawals are made to purchase interests to acquire and conserve open space, as authorized by the Town Board.

LETTER OF INTERPRETATION (PRIVATE) – a letter issued by the Director of Planning and Environment that indicates the number of density credits that could potentially be severed from a proposed sending site through a private party transfer.

LETTER OF INTERPRETATION (PUBLIC) – a letter issued by the Director of Planning and Environment that indicates the number of publicly-held density credits that could potentially be committed to a public benefit receiving project.

PASSIVE OPEN SPACE – land(s) acquired by the Town of Huntington or other governmental agency or conservation organization that otherwise have development potential, but have been or will be maintained for conservation purposes without physical site improvement, except for typical appurtenances, such as trails, benches, signage or pervious parking, and with no maintained or fertilized turf.

PRIVATE PARTY TRANSFER – a conveyance of density flow rights between two individual property owners in support of an application pending review of a board or department in the Town of Huntington.

PUBLIC BENEFIT TRANSFER – a conveyance of density flow rights between the Town of Huntington and another party that supports a defined public purpose or goal (offset) identified in the Comprehensive Plan and is necessary to implement an application pending review of a board or department in the Town of Huntington.

RECEIVING PARCEL(S) – one or more areas of land to which Density Flow Rights generated from one or more sending parcels may be transferred and in which development is permitted to occur, but may not exceed density allowed by existing zoning, by reason of such transfer, preferably hamlet centers, nodes and corridors as identified by the Comprehensive Plan.

SENDING PARCEL(S) – one or more parcels of land from which Density Flow Rights are severed permanently for use in one or more receiving areas in the Town of Huntington.

TRANSFER OF DENSITY FLOW RIGHTS – the Process by which such rights are transferred from one lot, parcel, or area of land in any sending area to another lot, parcel, or area of land in one or more receiving districts or areas in the Town of Huntington. Transfer of Density Flow Rights (TDFR) must result in the permanent protection of open space determined to be of value to the Town's protected lands inventory, consistent with identified local goals for land protection, and in compliance with SCDHS TDR Standards.

§ 172-3 Authority of the Planning Board

A. Authorization. The Planning Board is authorized to enable the transfer of Density Flow Rights from one (1) or more parcel(s) of land where such authorization shall be found to be beneficial to the town through serving to implement the Comprehensive Plan and its update and to be in accordance with the provisions of this article. Only the Planning Board and the Suffolk County Department of Health Services may definitively determine the Density Flow Rights allotted a particular parcel or area of land.

B. Administration. The Planning Board shall be the sole arbitrator of consistency associated with this article. The Planning Board shall:

1. Resolve interpretation of density flow credits and TDFR Program consistency for private party transfers upon application and review;
2. Issue density flow credit certificates for private party transfers upon the filing of proof that title to the sending site has been transferred to or that a conservation easement has been created in the favor of the Town of Huntington or other governmental or land trust organization approved by the Town Board, and that such deed or easement has been duly recorded by the parties with the Suffolk County Clerk;
3. Determine density flow rights to be dedicated to the Density Rights Bank when lands are about to be acquired through purchase, dedication or donation that will remain in their natural state;
4. Determine consistency and resolve recommended density flow credits for public benefit transfer/ redemption from the Density Rights Bank to the Town Board;
5. Retain and catalogue issued certificates for both private party and public benefit projects and redeemed density flow credits in a secure Department of Planning and Environment-managed database;
6. Prepare and distribute an annual report to the Town Board, Town Clerk and Suffolk County Department of Health Services providing statistics on TDFR program activity;
- 7 Provide standard deed and easement language.

C. Referral to Suffolk County Department of Health Services. The Department of Planning and Environment will refer all applications to the SCDHS to verify the potential density credits that can be sent from or received on any parcel(s) prior to issuance of any letters of interpretation or density flow certificates by the Planning Board.

§ 172-4 Consistency with Comprehensive Plan and Policies

A. Comprehensive Plan. The relevant sending and receiving parcels considered under the Huntington TDFR Law shall be consistent with the Town Comprehensive Plan and any policies adopted by the Huntington Town Board. The TDFR Law enables development in accordance with applicable zoning regulations and the Comprehensive Plan, and will not pose impacts beyond those anticipated at allowable build-out levels.

§ 172-5 Reserved

§ 172-6 Calculation of Credits

A. Allocation of density flow credits. An application for the allocation of density flow credits shall be made to the Planning Board. The Planning Board shall calculate the total number of credits upon the real property within a designated sending area using a density yield factor.

B. Density yield for sending parcels is established by one of two methods consistent with the SCDHS TDR standards.

1. Yield map. If a subdivision requires a road, yield will be based on a yield map that shows 20,000 square foot lots with required site improvements, such as road(s) and recharge basin if necessary.
2. Mathematical formula. The development yield factor for all sending parcels shall be one (1) density flow credit per 20,000 square feet of real property or one (1) density flow credit per lot established prior to 1981 when Article 6 of the Suffolk County Sanitary Code specifying density requirements was established. Barring extenuating circumstances described in the rules for transfer for which a reduction may be taken, the sending site acreage multiplied by 0.5 shall be approximately equal to the density flow credit allocation.

§ 172-7 Rules for Transfer of Density Flow Rights

A. Standards. The following basic standards shall apply for Transfer of Density Flow Rights (TDFR) in the Town of Huntington, in addition to those set forth in the SCDHS TDR Standards.

1. A single density flow credit shall correspond to 20,000 square feet of lot area, which is the equivalent of 300 gallons per day (gpd) flow (e.g., a one acre lot in an R-40 zone could send two density flow credits).
2. Sending sites may generate and receiving sites may accept fractional flow credits broken down to the nearest quarter (75 gpd) of a credit.
3. A density flow credit or portion thereof shall only be received at a site for which yield has been proven to the satisfaction of the Planning Board based on a fully-conforming yield

- study or site plan or which meets Town standards for issuance of a building permit (e.g., single and separate parcel).
4. Location and site quality will be considered before any determination of sending rights is made. If there is any indication of conditions (e.g., proximity to wetlands, wellsite(s), saturated soils) that might not support a septic system on a property proposed as a sending site, the owner/applicant may be asked to provide qualifying data to assist determination of flow rights and the total area from which the rights are calculated may be reduced.
 5. Density flow credits shall not be generated from:
 - (a) Property from which credits or rights have been previously purchased or transferred;
 - (b) Property encumbered by easements, rights of way, or other encumbrances of record, unless such impediments are to be extinguished prior to transfer (e.g., abandonment of a right-of-way);
 - (c) Property improved with buildings or other improvements, unless a distinct open space parcel can be defined therefrom;
 - (d) Property designated as buffer, park set-aside or open space that is held privately and which has been created as a requirement or condition of an approval by the Town Board, Planning Board or Zoning Board of Appeals or specified in Town Code; or
 - (e) Property located within a sewer district or approved for connection to a sewage treatment facility.
 6. Lands within Special Groundwater Protection Areas as defined in the (1993) Long Island Comprehensive Special Groundwater Protection Area Plan should serve primarily as sending areas.
 7. Sending and receiving areas should be in the same groundwater management zone.
 8. Sending and receiving properties need not be similarly zoned.
 9. A separate deed conveying the sending parcel to the Town of Huntington or other governmental or land trust organization approved by the Town Board or deed restriction (e.g., conservation easement or declaration of covenant and restriction) inuring to the Town of Huntington must be filed for the affected sending area before rights are sent from that property. If a less than fee interest is conveyed, it must allow perpetual oversight and access for monitoring by the Town or another government or conservation organization on an approved list. The Director of Planning and Environment shall, with the assistance of the Town Attorney, review the content and form of each such deed or easement prior to its filing for compliance with the requirements of this article.
 10. A sending site may be dedicated/deeded to the Town of Huntington or other governmental or land trust organization approved by the Town Board if it is acceptable to the Town Board or deeded to another interested government agency or conservation organization.
 11. Sending sites will be managed as natural open space in perpetuity without any maintained or fertilized turf.
 12. Density flow rights shall not be received on:
 - (a) Property individually-listed or within a district listed on the National Register of Historic Places or designated by the Town Board, unless the transfer is protective of the historic resource;
 - (a) Lots with an average slope greater than or equal to 10%;
 - (b) Golf courses;

- (c) Property located within a sewer district or approved for connection to a sewage treatment facility;
- (d) Environmentally sensitive sites or sites with features that would be compromised by added density.

13. No TDFR shall result in a transfer into the Town from another municipality or out to another municipality.

B. Procedures for severance and redemption of density flow rights. Separate procedures apply for private party transfers and public benefit transfers.

§ 172-8 Private Party Transfers

A. Request for Letter of Interpretation (LOI). The property owner and contract vendee, if applicable, shall file a signed and notarized application with the Planning Board for a letter of interpretation on a form to be supplied by the Department of Planning and Environment together with the following documents and a five hundred (\$500) dollar application fee:

1. Copy of the property survey;
2. Legal description of that portion of the property to be considered in the letter of interpretation.
3. Copy of latest deed and a covenants and restrictions search;
4. Copy of tax bill;
5. Environmental Assessment Form (only if request is not consistent with an application for which a SEORA review has been completed); and
6. A letter requesting the transfer, identifying involved properties, and indicating whether the density flow certificates will be utilized for residential, commercial and/or industrial development;
7. Any other documentation required by the Planning Board or the planning staff.

B. Review of LOI Request for Private Party Transfer. Upon the submission of a complete application, the Planning Board will review it with staff support and, if deemed acceptable by the Planning Board, following confirmation by the SCDHS, the Director of Planning and Environment shall issue a letter of interpretation indicating the number of density flow credits that could ultimately be severed from the real property or a portion thereof within sixty (60) days. The property owner has thirty (30) days from the date of the letter of interpretation to appeal the allocation of density flow credits identified in the letter of interpretation to the Planning Board upon written letter of appeal and submission of a filing fee of one hundred (\$100) dollars. A letter of interpretation shall expire two (2) years following its issuance. The expiration date shall be tolled by any pending Town application review.

C. Density flow credit application. Subsequent to receipt of a letter of interpretation, a property owner or contract vendee may request a density flow credit certificate from the Planning Board by submission of the following:

1. The letter of interpretation;
2. A full title search, including a search for any and all encumbrances on the property;

3. A completed density flow credit certificate application form to be supplied by the Department of Planning and Environment;
4. Proposed deed of conveyance and/or conservation easement; and
5. Any other documentation requested by the Department of Planning or Planning Board.

D. Density flow credit certificate. Upon the recording of the appropriate conservation easement in the Office of the County Clerk encumbering all or part of a sending parcel or a signed deed of transfer to the Town of Huntington therefor, and the provision of evidence of same to the Planning Board, the Planning Board shall issue a density flow credit certificate certifying that the holder is entitled to a specific number/fraction of density flow credits. As the density flow credit certificate has real value as an interest in the property, any sale or transfer thereof must be registered with the Department of Planning and Environment.

E. Redemption of density flow credits/Transfer authorization. Density flow credits are considered to be an interest in real property. They may be used to increase the development yields on receiving parcel(s) only in accordance with existing zoning, with SCDHS TDR Standards, and with procedures established by the Town Board consistent with the goals and objectives set forth in the Town Comprehensive Plan. A request to redeem a density flow credit at a specific receiving area may accompany the request for the density flow credit certificate or it may be made within 2 years from the issuance of the Letter of Interpretation. If the transfer request involves an application that is pending before the Planning Board, it may authorize the transfer as a specified item when it issues conditional final approval. If the transfer request is pending review of the Department of Engineering Services, a separate Planning Board resolution shall be required.

F. Registration of Transfer. The Department of Planning and Environment shall track all transfer transactions in a central database and notify the Assessor and Director of Engineering Services when a transfer of density flow rights has been authorized to insure proper assessment of the sending parcel as vacant unbuildable property.

§ 172-9 (reserved)

§ 172-10 (reserved)

§ 172-11 Public Benefit Transfers

A. Procedure. Upon the submission of a complete application for a Letter of Interpretation pursuant to § 172-8A, the Planning Board will conduct a consistency review and consider the availability of density flow credits held by the Density Rights Bank, the public purpose to be served by the pending project that would benefit from the transfer and its relation to fulfillment of Comprehensive Plan goals. Publicly-held density rights may only be considered by the Town Board, if in the Board's discretion, the receiving parcel project meets one or more of the following criteria:

1. Incorporates workforce housing or affordable housing;
2. Provides for significant economic development in a hamlet or village center area;

3. Donates real property or other tangible benefit to the Town of Huntington;
4. Provides significant environmental benefit to the Town of Huntington;
5. Implements the recommendations of the Town's Comprehensive Plan;
6. Achieves some other worthwhile goal or benefit as determined by the Town Board.

B. The Planning Board shall submit its written recommendation to the Town Board within sixty (60) days of the filing of a complete application. The Town Board may consider the recommendation of the Planning Board and issue a determination by resolution. If the Town Board fails to act within ninety (90) days, or fails to extend the period in which to act, the proposed use of public density flow credits shall be deemed to have been denied.

C. Value Determination. If the Town Board affirms the use of credits held by the Density Rights Bank, in conformance with criteria and goals identified in the legislative intent of the chapter for an appropriate public use, the Planning Board will order an independent certified appraisal to determine the fair market value of the requested flow credits, which shall be established by the difference in value between the development potential of the property as exists at the time of application and the development potential with the added flow credits. Upon receipt of the appraisal, the Planning Board shall assess a fee that is payable in an amount equal to or less than the appraised value of the flow rights, based on dollar for dollar in-kind offsets that accompany the proposed project. The fee established by the Planning Board will be referred to the Town Board for review and determination. Once the Town Board establishes the fee, the Director of Planning and Environment may issue a supporting LOI, which shall specify the fee and state the appraised value of the rights and the associated value of any offsets that are considered a condition of the LOI.

D. Density flow credit certificate.

1. Subsequent to receipt of a letter of interpretation, a property owner may request a density flow credit certificate from the Planning Board by submission of the following documents with a five hundred dollar (\$500) fee:

- (a) The letter of interpretation;
- (b) A full title search, which includes a search for all encumbrances on the property; and
- (c) A completed density flow credit certificate application form to be supplied by the Department of Planning and Environment; and
- (d) Payment or guarantee acceptable to the Town Attorney of the established fee, which will be credited to the Affordable Housing Trust Fund.

2. Upon completion of the statutory requirements, the Planning Board shall issue a density flow credit certificate certifying that the holder is entitled to a specific number of density flow credits. Density flow credits shall expire within two (2) years from the date of issuance of the Letter of Interpretation, unless otherwise extended for no more than two (2) years per extension, in the discretion of the Planning Board, for good cause shown. Any application for an extension shall be made prior to the expiration of the original term of the density flow credits, or any extension thereof, and can not be extended by the Planning Board more than twice. Public density flow credits shall be used within six (6) years from the date of issuance of the Letter of Interpretation.

E. Restricted Use of Public Credits

Public density flow credits are only useable pursuant to the grant under which they were created. They are site-specific to the project reviewed by the Planning Board. Resale of public flow credits is strictly prohibited.

§ 172.12 Passive Open Space Review

A. Passive Open Space Review for Density Rights Bank. The Town Open Space Coordinator shall consult the Planning Board with regard to all planned natural area land acquisitions or rededication of Town-held properties for conservation purposes prior to submitting a resolution to the Town Board for dedication and/or funding authorization. All such Town Board resolutions will include reference to the credits to be generated and dedicated to the Density Rights Bank. Where possible, shared acquisitions with other governmental agencies should result in a matching allocation of density flow rights (e.g., 50%-50%).

B. Management and Monitoring of Sending Sites

The Town Department of Planning and Environment is authorized to monitor all sending sites annually to insure that they are being maintained in accordance with this article in a natural passive open space condition. Failure to maintain a sending site in its natural vegetative state and in compliance with the provisions of this article shall be deemed an offense against this article.

C. Donation of Density Flow Rights

The Density Rights Bank may also include density flow rights acquired through philanthropy, such as by voluntary land donation to the Town of Huntington or other governmental or land trust organization approved by the Town Board or conservation easement duly recorded with the Office of the County Clerk, provided that the sending property meets a designated Comprehensive Plan goal. The philanthropy may or may not be by outright gift in full.

§ 172.13 Penalties for Offenses

A person or business entity who commits or permits any acts in violation of any provision of this article shall be deemed to have committed an offense against this chapter and shall be liable for such violation and the penalty therefore, and shall upon conviction thereof, be subject to a penalty of not less than two hundred fifty (\$250) dollars and not more than one thousand (\$1,000) dollars. Each day, or part thereof, such violation continues or is permitted to exist following notification by the Town, or service of a notice of violation or summons shall constitute a separate offense, punishable in like manner.

Section 2. Severability

If any clause, sentence, paragraph, subdivision, section or other part of this local law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair, or invalidate the remainder of this local law, and it shall be construed to have been the legislative intent to enact this local law without such unconstitutional or invalid parts therein.

Section 3. Effective Date

This Local Law shall take effect immediately upon filing in the Offices of the Secretary of State of New York.

* * * INDICATES NO CHANGE TO PRESENT TEXT
ADDITIONS ARE INDICATED BY UNDERLINE
DELETIONS ARE INDICATED BY [BRACKETS]

VOTE: AYES: 5 NOES: 0 ABSTENTIONS: 0

Supervisor Frank P. Petrone **AYE**
Councilwoman Susan A. Berland **AYE**
Councilman Stuart P. Besen **AYE**
Councilman Mark A. Cuthbertson **AYE**
Councilwoman Glenda A. Jackson **AYE**

THE RESOLUTION WAS THEREUPON DECLARED DULY ADOPTED.

**TOWN OF HUNTINGTON
TRANSFER OF DENSITY FLOW RIGHTS PROGRAM**



**DRAFT
GENERIC ENVIRONMENTAL IMPACT STATEMENT**

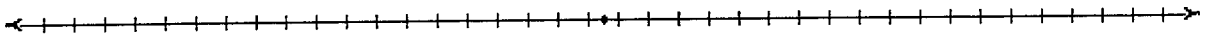


Prepared for:
TOWN OF HUNTINGTON TOWN BOARD
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October 2007

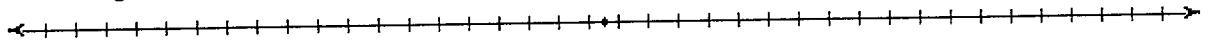


Executive Summary

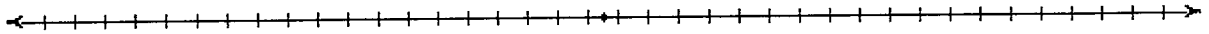
This Draft Generic Environmental Impact Statement (DGEIS) introduces and evaluates a potential new Town Code chapter (Land Conservation) that establishes an administration process for a Transfer of Density Flow Rights Program in the Town of Huntington. The program will enable the preservation of open space at sending sites, while allowing receiving sites to be developed in accordance with existing zoning and Suffolk County Department of Health Services’ (SCDHS) TDR Standards. Separate processes are proposed for review of private party transfers and for those with public purpose. This program was developed as a response to Suffolk County Sanitary Code Article VI requirements that do not allow development at an average density less than 20,000 square feet per lot, contrary to several Town zoning classifications. The program is intended to facilitate SCDHS’ consideration of Huntington projects in a manner that will support the Town of Huntington’s open space protection goals. Every transferred credit or portion thereof should result in preservation of open space.

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SECTION I – PROPOSED PROGRAM

Purpose

The purpose of the proposed Transfer of Density Flow Rights Program is to provide a coordinating link between the groundwater protection efforts of the Suffolk County Department of Health Services and its governing Sanitary Code and land use planning in the Town of Huntington consistent with Town Code and regulations.

Problem

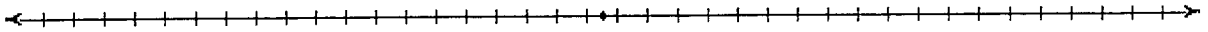
A Transfer of Density Flow Rights Program is proposed to further Huntington open space goals and to prevent the processing conundrum that presently exists for landowners/applicants seeking to intensify use of their lands fully consistent with specific Town zoning and regulations.

Three plans prepared by the Long Island Regional Planning Board with extensive participation from other governmental agencies have resulted in specific controls to protect the groundwater supply by guaranteeing quality aquifer recharge through capacity management. The 208 Study, prepared with funding provided from the U.S. Environmental Protection Agency under Section 208 of the Federal Clean Water Act (1988), the Suffolk County Comprehensive Groundwater Resources Management Plan (1987), and the Long Island Comprehensive Special Groundwater Protection Area Plan (1993) have provided substantial data and defined regulatory and administrative measures to assure the viability and capacity of the County's groundwater system.

Article VI of the Suffolk County Sanitary Code imposes a de facto overlay district on the Town of Huntington landscape that requires average lot sizes in a new subdivision to meet or exceed 20,000 square feet per lot. This prohibits property owners of subdividable real property classified at a greater density than R-20 (20,000 square feet/half-acre) zoning from fully developing their vacant or underutilized property without a variance from the Suffolk County Department of Health Services' Board of Review. Thus, land in six of the nine residential districts in the Town of Huntington and three of the twelve commercial districts that allow residences, those zoned R-5, R-7, R-10, R-15, R-3M, R-RM, C-1, C-3, and C-4 can not be fully developed in accordance with present zoning guidelines. Other properties may be similarly restricted for commercial and industrial development and/or expansion. This restriction occurs regardless of the proposed subdivision setting and level of build-out that surrounds it in any given neighborhood, with the only exceptions being properties located within sewer districts or connected to approved sewage treatment facilities. It has the effect of restricting infill development in older settled areas of the Town that are already densely-developed and encouraging larger lot development/sprawl elsewhere.

Scope

The Town of Huntington proposes a simple process to aid the Suffolk County Department of Health Services in implementation of a Transfer of Density Flow Rights Program. This transfer program differs from a standard Transfer of Development Rights program. A Transfer of Development Rights Program allows a receiving site to be developed at a density that is greater than existing zoning. *The proposed Transfer of Density Flow Rights Program shall only allow a receiving site to be developed at the existing zoning, up to double sanitary density (the equivalent of R-10 zoning).* Only mathematical density allowance, as calculated by the Town's proposed rules consistent with the Suffolk County Sanitary Code, may be moved and corresponding open space must be protected (e.g., one acre



in an R-20 zone = 600 gallons per day = 2 density flow rights). To transfer actual development rights, all applicable provisions in Town Code §118.2 and New York State Town Law apply.

Density Rights Bank

The Huntington Transfer of Density Flow Rights Program requires the establishment of a Density Rights Bank. The Town Board will govern assignment of density rights that are held or to be acquired by the Town, with priority to projects that further a public benefit purpose, such as the provision of affordable housing. An application process will be administered through the Department of Planning and Environment. All transfers of density rights will be carefully documented and tracked in a database registry managed by the Department of Planning and Environment.

The Breslin/Hren rezoning is an example of how flow rights could be held by a Density Rights Bank. Nine and a half acres are to be dedicated to the Town as passive parkland. The findings statement adopted by the Town Board for the rezoning specifies:

As mitigation related to any potential rezoning enactment, unused wastewater capacity on site resulting from any dedication of parkland may be earmarked for transfer to another site. These density rights (development rights/health credits) could be considered encumbered and dedicated to the Town of Huntington Housing Trust Fund for future determination, unless necessary to mix residential uses within the retail development area. Should such density rights be required at some future time to further Comprehensive Plan goals (e.g., to provide needed affordable housing stock or to encourage development of a particular amenity appurtenant thereto), it would be at the Town Board’s discretion to determine their transferability...

Thus, since the Town has taken title to the parkland, the Town will hold its density flow rights for sending, as appropriate, to serve public benefit projects and once again, not allowing more homes than the existing zoning would allow at the receiving location. Similarly, the acquisition of land by the Town and County, now known as the Hawk Valley Preserve, resulted in the generation of six wastewater credits. The Town and County each hold three credits that can be transferred to aid a project deemed suitable by the Town Board.

Private Party Transfers

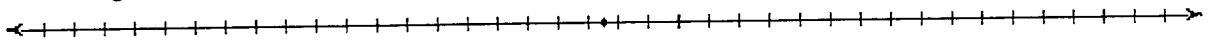
A property owner may choose to convey density rights to another property owner in the same hydrogeological management zone¹, without benefit of the Town Density Rights Bank. A simple application process administered through the Department of Planning and Environment will enable a consistency determination from the Town of Huntington, in lieu of a variance by Suffolk County Department of Health Services Board of Review. If appropriate, such application may be processed simultaneously with an application pending Planning Board or Department of Engineering Services review (e.g., subdivision, site plan, building permit). It is anticipated that some private party transfers will involve sending flow rights from portions of existing developed sites. Therefore, specific consideration for partially developed sending sites is warranted.

¹ Hydrogeological management zones were described in the Federal 208 Study/Long Island Comprehensive Waste Treatment Management Plan, Volume I, pages 44-46 as wastewater management zones that represent critical watershed areas. As the Magothy aquifer is anticipated to be the prime source of future water supply, the 208 Study recommends that its contributing areas be subjected to strict management controls. Article 7 of the Suffolk County Sanitary Code identifies Zones I, II, III and V as areas that contribute recharge water to a deep groundwater flow system. Article 6 of the Suffolk County Sanitary Code regulates discharge of wastewater by restricting density flow allowance in specified hydrogeological management zones. In Huntington Groundwater Management Zone I provides most of the contributing recharge area for active public supply wells. See Figure 1.

Rules for Transfer of Density Flow Rights

The following basic standards are proposed for Transfer of Density Flow Rights (TDFR) in the Town of Huntington, in addition to those set forth in the SCDHS TDR Standards.

1. A single density flow credit shall correspond to 20,000 square feet of lot area, which is the equivalent of 300 gallons per day (gpd) flow (e.g., a one acre lot in an R-40 zone could send two density flow credits).
2. Sending sites may generate and receiving sites may accept fractional flow credits broken down to the nearest quarter (75 gpd) of a credit.
3. A density flow credit or portion thereof shall only be received at a site for which yield has been proven to the satisfaction of the Planning Board based on a fully-conforming yield study or site plan or which meets Town standards for issuance of a building permit (e.g., single and separate parcel).
4. Location and site quality will be considered before any determination of sending rights is made. If there is any indication of conditions (e.g., proximity to wetlands, wellsite(s), saturated soils) that might not support a septic system on a property proposed as a sending site, the owner/applicant may be asked to provide qualifying data to assist determination of flow rights and the total area from which the rights are calculated may be reduced.
5. Density flow credits shall not be generated from:
 - (a) Property from which credits or rights have been previously purchased or transferred;
 - (b) Property encumbered by easements, rights of way, or other encumbrances of record, unless such impediments are to be extinguished prior to transfer (e.g., abandonment of a right-of-way);
 - (c) Property improved with buildings or other improvements, unless a distinct open space parcel can be defined therefrom;
 - (d) Property designated as buffer, park set-aside or open space that is held privately and which has been created as a requirement or condition of an approval by the Town Board, Planning Board or Zoning Board of Appeals or specified in Town Code; or
 - (e) Property located within a sewer district or approved for connection to a sewage treatment facility.
6. Lands within Special Groundwater Protection Areas as defined in the (1993) Long Island Comprehensive Special Groundwater Protection Area Plan should serve primarily as sending areas.
7. Sending and receiving areas should be in the same groundwater management zone.
8. Sending and receiving properties need not be similarly zoned.
9. A separate deed conveying the sending parcel to a municipality or land trust organization or deed restriction (e.g., conservation easement or declaration of covenant and restriction) inuring to the Town of Huntington must be filed for the affected sending area before rights are sent from that property. If a less than fee interest is conveyed, it must allow perpetual oversight and access for monitoring by the Town or another government or conservation organization on an approved list.
10. A sending site may be dedicated/deeded to the Town if it is acceptable to the Town Board or deeded to another interested government agency or conservation organization.
11. Sending sites will be managed as natural open space in perpetuity without any maintained or fertilized turf.
12. Density flow rights shall not be received on:
 - (a) Property individually-listed or within a district listed on the National Register of Historic Places or designated by the Town Board, unless the transfer is protective of the historic resource;
 - (b) Hillside Area as defined in the Town Code with an average slope greater than or equal to 10%;
 - (c) Golf courses;



- (d) Property located within a sewer district or approved for connection to a sewage treatment facility;
 - (e) Environmentally sensitive sites or sites with features that would be compromised by added density.
13. No TDFR shall result in a transfer into the Town from another municipality or out to another municipality.

Special consideration for partially developed sending sites

There are many properties throughout Huntington that are oversized for the zoning requirement (e.g., 3 acres with a historic house in an R-40 one-acre zone). Establishment of a TDFR Program may provide an opportunity for some of these property owners to preserve a component of their land and/or to benefit from the sale of any associated density flow credit that might be attributed to the overage. This may become a particularly important option for owners of historically significant property wishing to preserve its context. Additional parameters will need to be considered for such sites that will need to be apportioned to qualify as sending sites, including, but not limited to:

- The developed component of the sending site must conform to all area and setback requirements of the zoning classification.
- If a ZBA area variance has been granted already to the property, that variance shall not be further modified.
- An owner shall not seek any new variance, beyond the implementation date of the TDFR Program, to enable a density transfer.
- Clearly visible monuments must be installed to demarcate the sending site area.
- The allowable remaining use of a sending site (e.g. single family residential) shall be defined in the required deed restriction.

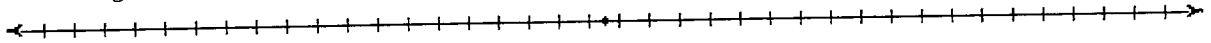
Identification of Sending and Receiving Sites

The TDFR Program should be viewed as a tool to aid the Town in its conservation efforts, while simultaneously supporting development in accordance with the Town's existing zoning and Comprehensive Plan.

The following types of properties are among those that may be considered to be potential sending sites for Transfer of Density Flow Rights:

- Property identified on any Protection Priority Listing maintained by the Department of Planning and Environment or pending Town and/or other governmental agency acquisition that is to be managed as a passive park or nature preserve
- Property adjoining any public parkland or protected open space;
- Property determined by the Conservation Board or EOSPA Committee to warrant preservation (i.e., that may be offered for consideration as a private party transfer);
- Property that is converted to passive parkland from another public purpose designation (e.g., abandoned road right-of-way);
- Property with an average natural slope in excess of 10% or in proximity of any state-regulated freshwater or tidal wetlands;
- Property with existing utility easements where a covenant and restriction would sterilize further use in perpetuity;
- Property which meets any of the conservation purposes for a conservation easement as defined in the Federal Internal Revenue Code section 170(h)² and associated letter rulings.

² See U.S. Code, Sec. 170 Charitable, etc., contributions and gifts at http://www.access.gpo.gov/uscode/title26/subtitlea_chapter1_subchapterb_partvi_.html



The Town Open Space Coordinator will prepare a written recommendation to the reviewing Board or Department, with the input of the Conservation Board and/or Environmental Open Space and Park Fund Review (EOSPA) Committee, regarding the suitability of a property to be designated as a sending site. The Director and staff of the Department of Planning and Environment, with the Suffolk County Department of Health Services, will assist the Planning Board in determining the amount of density flow credit(s) that any given sending site might generate.

The following types of properties are examples of areas that may be considered to be potential receiving sites for Transfer of Density Flow Rights:

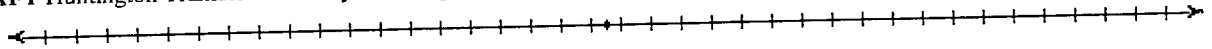
- Property for which the Planning Board has granted or is pending preliminary subdivision approval in a zoning category that allows more intensive development than R-20 Residence District (20,000 square feet per lot)
- Property for which the Planning Board has granted or is pending site plan approval or which otherwise meets Town standards and is pending issuance of a building permit from the Department of Engineering Services
- Affordable and workforce housing projects approved by the Town Board.

Perpetual Management of Sending Areas

All sending areas must remain in their natural state, whether privately or publicly-owned. No structural improvements (e.g., sheds) of any kind may be placed on them, nor shall they be used for any type of storage. The natural habitat is to be reserved and not disturbed. If the area is presently a maintained area, it must be allowed to progress through natural succession with no interference (e.g., fertilization, seeding, planting, mowing, selective tree removal), unless it is determined that there is a specific health and safety threat (e.g., tree dangling over path). Walking paths may be created or continue to be used in sending areas.

Administration of TDFR Program

The Transfer of Density Flow Rights Program simply allows an owner to express yield in accordance with specific existing zoning classifications. It does not affect the Town Zoning Code in any manner. As a groundwater quality and open space conservation tool, the TDFR Program is proposed to be codified within a new Section in Town Code, Chapter 172, Land Conservation.



SECTION II – DGEIS

SEQRA Discussion

Classification

The proposed action, adoption of a townwide Transfer of Density Flow Rights Program, may be classified a **Type I** action as it involves the adoption of a policy program (supportive of a County comprehensive resource management plan) by the Town Board.

Town Code/Town Law GEIS Requirement

The transfer of permitted development rights pursuant to Town Code §198-118.2 and to New York State Town Law §261(a) requires preparation of a generic environmental impact statement before any location is designated as a receiving district or the location from which the development rights shall be transferred from is designated a sending district. The proposed action has townwide applicability and will be promulgated in a new ordinance that will establish criteria defining actual receiving and sending sites throughout the Town. Thus, consistent with the requirement for a GEIS for TDR, a positive declaration is warranted. This Draft Generic Environmental Impact Statement (DGEIS) document considers potential impacts of future planning policy decisions that may emanate from approval of the new TDFR Program.

Land Use, Zoning and Demographics

The proposed Transfer of Density Flow Rights Program will result in some properties remaining as passive open space; while other lands are developed to their existing zoned potential. Both uses would be consistent and allowable under existing zoning regulations. The program can result in potentially less population generation than existing zoning, as it is a trade-off/balancing to meet County Sanitary Code wastewater flow allowances that are more restrictive than some Town zoning classifications. No application for a determination under the TDFR Program would be required unless a parcel or component thereof is to be “sterilized” and held as perpetual open space (through deed transfer or conservation easement inuring to a municipality or land trust organization) to enable the development of another. There will be no net increase in population or housing density potential and no change in allowable land use associated with the proposed Transfer of Density Flow Rights Program.

Consistency With Town Planning Policy

Comprehensive Plan

A transfer of density flow rights program would meet a number of open space goals set by the 1993 Comprehensive Plan. The transfer could limit development in and around identified areas of environmental concern (e.g., slopes, wetlands, parkland) and allow full development in accordance with zoning in an area with available infrastructure and less significant environmental concerns. Transferring density flow rights is a method to achieve more of the existing zoned yield. The Comprehensive Plan Update Phase 2: Interim Report of Draft Goals, Policies and Action Strategies (September, 2006) accepted by the Town Board recommends in Policy A.9(2): “Implement a Transfer of Density Flow Rights (TDFR) Program to preserve open space by restoring the density permitted by existing zoning on properties affected by the Suffolk County Sanitary Code.”

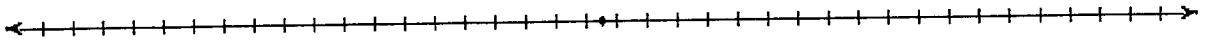
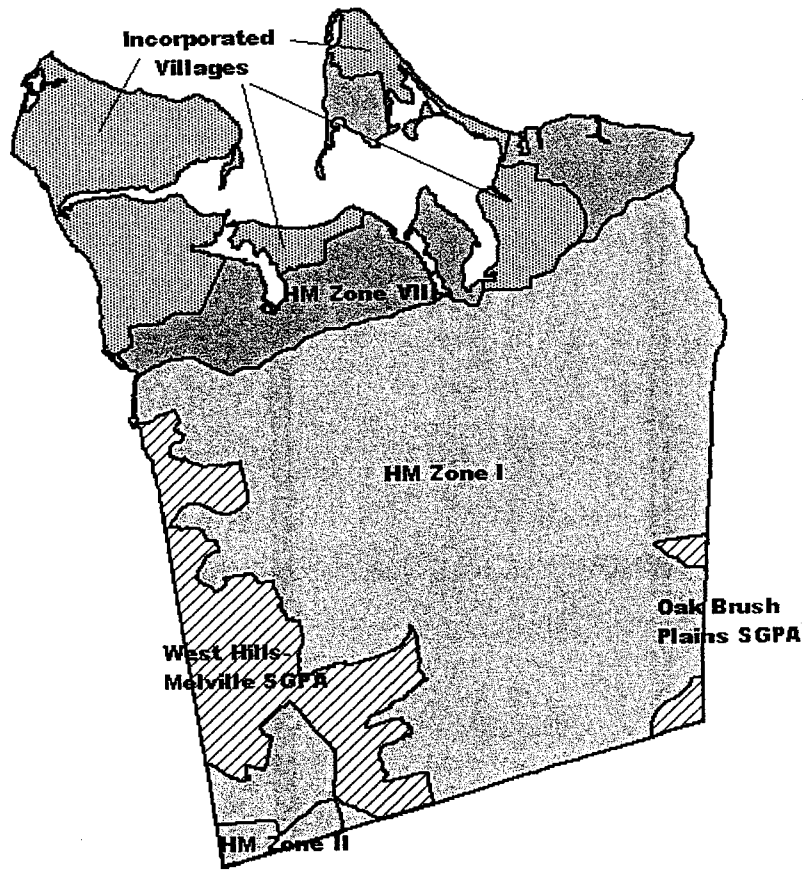
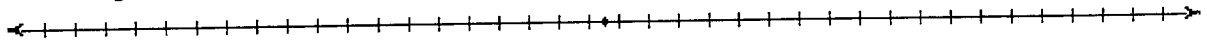


Figure 1 – Hydrogeological Management Zones and Special Groundwater Protection Areas





Smart Growth Principles

This proposed program is consistent with the Smart Growth Principles³ that were adopted by the Town. It directs development away from open space and to an area with existing infrastructure to handle the development. It links development decisions with environmental concerns.

Potential Significant Adverse Environmental Impacts And Related Mitigation Measures

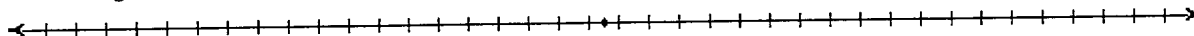
The Comprehensive Plan Update details major issues and trends that the Town was and, in many instances, is continuing to confront. The Comprehensive Plan advocates specific policies based on reasoned elaboration to reduce potential adverse effects. In this regard, the issues may be viewed as impacts, the recommendations are mitigation, and the Comprehensive Plan is an evolved set of "demand responsive" policy directives allowing change within constructive bounds. The Transfer of Development Rights is discussed as a tool that was already availed by Town Code at the time of Comprehensive Plan adoption; however, it has yet to be implemented.

New York State Environmental Conservation Law [SEQRA 6 NYCRR 617.14(f)(7)] requires the body of all draft environmental impact statements to contain "a description of mitigation measures to minimize the adverse environmental impacts." This section of the GEIS identifies possible indirect impacts, some of which may be detrimental. However, there are *no direct impacts* to be incurred upon the Town Board's adoption of a Transfer of Density Flow Rights Program.

The proposed Transfer of Density Flow Rights Program is ideally a mitigation plan itself, designed to lessen negative social, economic, and environmental pressures and effects presently proposed to affect a sensitive open space area. By moving the impact to an area that has sufficient infrastructure to accommodate it, the Town Board will establish a positive precedent for employing a new conservation tool in the Town of Huntington. No site will be developed at a yield that exceeds its present zoned density; however the program may allow a site to achieve development at its existing zoned density in keeping with neighborhood character.

While the authorization to transfer density rights does not pose direct (primary) impacts that are dependent on alteration of site-specific conditions, there may be minor indirect (secondary) impacts, which result upon subsequent engineered project approval by the Town's boards and departments. Potential indirect benefits and costs of implementation of the Transfer of Development Flow Rights Program are summarized and then described more fully below with a discussion of appropriate mitigation measures. For every potential Transfer of Density Rights transaction, there will be a resultant preservation of property and a corresponding development scenario that meets Town standards. Each transaction will be considered as part of a SEQRA review for the pending approval (site plan, subdivision, building permit).

³See Smart Growth Checklist in Appendix C



Socio-Economic Impact

Taxing Jurisdictions

All new development poses potential for effects on community tax structure due to revenues generated upon new construction and greater demands for streets, utilities, and other municipal services. Receiving sites will be taxed based on the added value of improvements once they are developed. Property that will serve as sending sites will continue to be taxed as vacant land, unless it is conveyed directly to a government agency or not-for-profit conservation organization and becomes exempt. It is preferable that the sending and receiving sites share common service districts. This is a key factor in considering whether any transfer of rights will create a disproportionate shift of any service burden (detriment) or tax revenue (benefit). Due to the intended similarity of location and the limited transfer of only sufficient rights to allow development as already permitted by certain Town zoning classifications, this proposed TDFR program is not likely to pose any potential adverse effect to community services beyond what is anticipated based on existing zoning, nor will it generate new ratables to the benefit of any specific taxing district.

Assessment of Affected Parcels

The assessment for sending and receiving sites will be reviewed following the transfer of density flow rights. Sending sites may be reassessed depending on the specific necessary binding interest that is conveyed. If the land is deeded to a government agency or not-for-profit conservation organization, the assessment becomes exempt. If the sending site remains in private ownership with a conservation easement, the value of the land is restricted making it non-buildable, which may lead to a reduction in assessment. Receiving sites will be reassessed upon completion of the improvement that required the transfer and will be adjusted accordingly to reflect the increased value.

Land Value

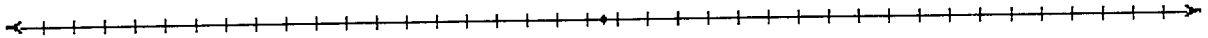
Land values are likely to increase in the vicinity of both the sending and receiving areas. New development projects tend to increase fair market valuation in an area, depending on scope and quality. Similarly, many studies have shown that proximity to open space that is restricted to remain in its natural state also adds value to an area.

Environmental Impacts

Land Resources

Development Impacts

Approval of the TDFR Program will not result in any immediate impact to land resources, as it is simply a paper/policy action. However, should any individual TDFR be approved, on-site infrastructure (buildings, driveways, parking area) would be expanded commensurate with the flow rights approved for transfer. *Clearly, the extent of development on any receiving site can never exceed what could be implemented on the site in accordance with existing zoning. Therefore, the physical impacts of implementing a Huntington TDFR Program will be less than what was considered and might be achieved through full build-out in accordance with the Comprehensive Plan Land Use Map.* The Comprehensive Plan was adopted in accordance with a Generic Environmental Impact Statement and SEQRA findings. Thus, the proposed TDFR Program may be considered a mitigating measure that further reduces *net* environmental impacts in Huntington.



Natural Resources

The natural habitat and amount of disturbance contained on both sending and receiving sites shall be evaluated. Clearly it is preferable for the sending site to be of higher ecological quality than the receiving property. Often site conditions dictate a certain level of clearing associated with development. In some cases, added flow rights density to meet existing zoning allowance may not displace much more natural habitat beyond that already planned for manipulation.

Rare, Endangered or Protected Species

While there may occasionally be protected native plants present on a proposed receiving site that will benefit from the proposed TDFR action, every effort will be made to minimize impact to natural habitat. A determination shall be required that receiving sites may not contain any threatened and/or endangered species (as per Federal or State Law) as inventoried on the New York Natural Heritage Program database.

Open Space and Recreation

All sites from which density flow rights are sent will be preserved in perpetuity as natural open space. A conservation easement or restrictive covenant will need to be prepared to inure to the Town of Huntington or other government agency or to another qualified conservation organization or fee title rights will have to be conveyed to effect any transfer of density flow rights. Any deed that restricts a sending site must be filed with the County Clerk’s office. The specific deed restriction will run with the property and will define the precise number of density flow credits that may be transferred and the area that shall be considered so encumbered. A survey that coincides with the affected area will need to be submitted for the Town’s records. If the land is restricted by conservation easement, it will continue to be held in private ownership. The TDFR will insure that the land from which rights are sent cannot be further developed; however, it will remain available for the owner’s private use, in essence as a private conserved area or sanctuary. Any sending site that is deeded directly to the Town will be dedicated as passive parkland; thus, it may have the added benefit of providing limited outdoor recreation through walking trails.

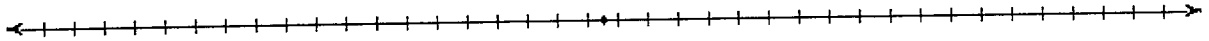
The open space on a receiving site that receives density flow credits will likely be further reduced than without the addition of the flow credits; however, most applicants for subdivision submit plans for full yield in accordance with existing zoning. It is likely that a Town reviewing agency, such as the Planning Board, will be considering full build-out as a yield map/worst case scenario anyway with the applicant anticipating that a variance would be requested to implement the design.

Character of Community/Aesthetic Resources

The transfer of density flow rights will have a net positive/beneficial impact on aesthetic resources, as there will be no change to the sending site. Sending sites will be preserved in their natural state. The site receiving a transfer of density flow rights can not be developed at a density that exceeds present zoning. Therefore, the receiving site should be improved in a manner that would be consistent with the current character of the immediately surrounding neighborhood in accordance with the Comprehensive Plan.

Historic and Archaeological Resources

The proposed TDFR may benefit the historic site resources of the Town by reducing or eliminating their development potential. This can be achieved by sending rights to other non-historic properties. Transferring density flow rights from historic sites could result in preservation of their existing context, thus insuring their aesthetic contribution to a particular streetscape is retained. Whenever possible, sites



that are Town-designated individually as historic landmarks or collectively within Town-designated historic districts, and/or listed on the National Register of Historic Places or in such a district should be considered as prime sending sites.

Water Resources

Surface Water

The proposed TDFR will not affect any body of water designated as protected under Articles 15, 24, or 25 of the NYS Environmental Conservation Law or Town of Huntington Marine Conservation Law. The proposed TDFR guidelines encourage the use of areas in proximity of wetlands as sending sites (never receiving areas). Thus, the TDFR Program has the potential to protect and/or limit non-point source pollution to state-regulated freshwater wetlands and may provide incentive to a landowner to transfer associated density elsewhere.

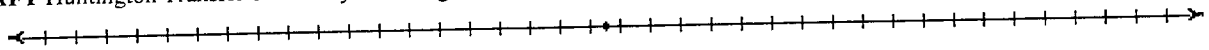
Groundwater

The proposed Transfer of Density Flow Rights Program is intended to have a net equivalent balance within a given hydrogeologic management area. The Town's proposed TDFR Program requires that sending and receiving sites should be within the same hydrogeologic management zone. Hydrogeologic management zones were defined in the Federal 208 Study. Most of the unincorporated Town of Huntington lies within the deep recharge zone (Hydrogeologic Management Zone I). Two other zones are in the unincorporated area of the Town—the area north of Route 25A (Hydrogeologic Management Zone VIII) and a small area at the southwest corner of the Town (Hydrogeologic Management Zone II).

A key principle for the proposed TDFR Program is to disallow any consideration of lands within existing sewer districts. These sites are or can be developed in accordance with existing zoning and the capacity for the individual sewer plants was projected based on existing zoning and/or contracted flows. Similarly, properties that are connected to existing sewer lines, such as to the Huntington or Southwest Sewer Districts, are to be excluded from TDFR consideration. Of the 50,707 acres that lie within the unincorporated area of Huntington, 41,765 acres in Zone I, 656 acres in Zone II, and 6,520 acres in Zone VIII lie outside sewer district boundaries and could potentially be considered for the proposed TDFR Program if all other programs requirements are met (See Figure 1). While sewer district boundaries are rarely amended, they could be and sewer connection lines may also change in time, thus, all applications must be judged on site-specific application of program criteria.

The Map of Water Table Contours and Locations of Observation Wells in Suffolk County (SCDHS) should be consulted when considering a TDFR. It is preferable that receiving sites should have an equivalent or greater depth to groundwater than the sending site. Greater water table depth correlates to increased travel time for drawdown of wastewater and stormwater constituents, thus more opportunity for the soil strata to filter potential contaminants. Public water availability for connection of any new development that is to benefit from TDFR proposal must also be considered to best mitigate potential for groundwater impact.

The Suffolk County Department of Health Services, Division of Environmental Quality has promulgated guidelines for Transfer of Development Rights projects. The guidelines, entitled "Transfer of Development Rights Standards," define applicable standards, such as the sending and receiving sites being within the same groundwater management zone. While the proposed Town



program only involves the transfer of density flow rights, the program shall be consistent with these standards.

Adverse Environmental Impacts That Cannot Be Avoided If Proposed TDR Is Implemented

There are no anticipated significant adverse environmental impacts if the proposed Transfer of Density Flow Rights Program is implemented. As noted above, there will be minimal effect to the receiving site commensurate with the limited number of units that might be placed on the property if developed in accordance with certain existing zoning districts and the SCDHS' TDR Standards. The sending sites will be managed as natural open space areas with no managed or fertilized turf.

Irreversible and Irretrievable Commitment of Resources

Adoption of the proposed Transfer of Density Flow Rights Program will cause only minor additional physical manipulation or land commitment beyond what was already planned, by existing zoning, for a receiving site. The loss of habitat in the areas identified on the Town Protection Priority Listing for natural open space preservation would be an irreversible and irretrievable commitment of resources. This proposed TDFR Program will assist the preservation of these key sites and other open space areas.

Growth-Inducing Aspects

Adoption of a Transfer of Density Flow Rights Program will not be directly growth inducing, nor will it be growth restraining. TDFR should be considered as a mechanism to balance and achieve manageable growth where it can best be sustained (e.g., where infrastructure and environmental conditions are project-compatible) and conversely, directing it away from sensitive environmental resources.

Effects On The Use And Conservation Of Energy Resources

The Transfer of Density Flow Rights Program will not cause an increase in energy (electric, gas, fuel) use, as it will only relocate project components that would have been developed otherwise in general proximity of the receiving site. Upon adoption of a TDFR, any development or new construction that may occur on the receiving site must conform to applicable Town and State building codes and standards derived to maximize the economic and environmental benefits of energy conservation. The supplier will determine energy availability at time of request for service.

Impacts on Solid Waste Management

Since the proposed Transfer of Density Flow Rights Program is a balancing mechanism and not a growth initiative, it can not result in physical development impacts that were not already anticipated on a townwide basis. Thus, the proposed action will not impact solid waste management or affect consistency with the state or locally adopted solid waste management plan.

Impacts on Agricultural Resources

The Town Transfer of Density Rights Program does not involve public acquisitions of land or interests in land or funding for non-farm development on lands used in agricultural production nor is it intended to affect unique and irreplaceable agricultural lands within agricultural districts pursuant to subdivision (4) of section 305 of article 25-AA of the Agriculture and Markets Law.

Consistency with Comprehensive Management Plan for Special Groundwater Protection Area Program

The proposed action is located in Suffolk County and may be considered a groundwater rights management program. The Town's program is specifically tailored to prevent impacts on designated Special Groundwater Protection Areas (SGPAs). A key proposed program standard (see Page 5 above) states:

Lands within Special Groundwater Protection Areas as defined in the (1993) Long Island Comprehensive Special Groundwater Protection Area Plan should serve primarily as sending areas.

Thus, the Huntington Transfer of Density Flow Rights Program is directly consistent with the Long Island Comprehensive Special Groundwater Protection Area Plan and may result in actions that pose less impact to the SGPAs than recommended by the plan adopted pursuant to article 57 of the Environmental Conservation Law for Nassau and Suffolk Counties.

Alternatives

The range of alternatives to the proposed Transfer of Density Rights Program is limited. Effectively there are but two alternatives to the proposed action, the no action alternative required for consideration pursuant to SEQRA [6 NYCRR 617.9(b)(5)(v)] and the potential public acquisition of lands that might otherwise be considered as sending sites under the proposed program. The TDRF Program is an opportunity to preserve land, while allowing some development in accordance with existing zoning.

No Action Alternative

Full Development - No Action

The no action alternative entails continuance of the present regulations that can result in the development of both sites that would be otherwise considered for sending and receiving density flow rights. The no action alternative will result in a potential loss of open space and greater cost to provide municipal services, as it will encourage large lot sprawl. Acceptance of this no action alternative would mean that certain landowners might be able to request variances from the Suffolk County Department of Health Services' Board of Review to achieve their intended goals, but many landowners of higher-density zoned properties outside the sewer districts will not be able to develop their land to its zoned potential.

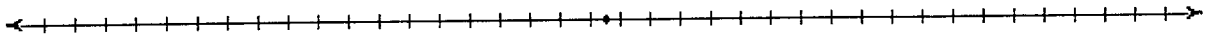
Public Acquisition Alternative

Fair Market Value Purchase

As an alternative to preserving open space through a defined Transfer of Density Flow Rights program at no burden to Town taxpayers, the Town can continue to rely on purchasing land at appraised fair market value as its main conservation option. The cost of continuing with the no action alternative will increase as land values continue to rise.

Other Municipal Programs

Programs that are in place in other towns in Suffolk County were also considered as alternatives. The proposed Huntington TDFR program incorporates some elements from these programs, but adds others. Huntington appears to be the first town in the county to propose separate private and



public transfer options. It is not limited to using rights from properties purchased under open space programs.

Potential Further Alternatives

To facilitate public participation, the Town Board shall hold simultaneous public hearings on the Proposed Transfer of Density Flow Rights Program and the Generic Environmental Impact Statement in accordance with section 272-a of Town Law and section 6 NYCRR 617.8(d)(2) relative to State Environmental Quality Review. It is anticipated that there will be public comment on the draft GEIS. Substantive comments and supplementary information received may result in amendments to the proposed Transfer of Density Flow Rights Program prior to its acceptance in final form. While this draft GEIS cannot speculate what revisions will be called for, the alternative consideration of other new or modified recommendations will remain a viable option of the Town Board until a Final GEIS is prepared, accepted and duly filed as necessary.

APPENDICES

APPENDIX A

Consistency with Smart Growth Principles

APPENDIX B

Draft Transfer of Density Rights Ordinance

APPENDIX C

Suffolk County Department of Health Services' TDR Standards

THE PRINCIPLES OF SMART GROWTH & LIVABILITY
CONSISTENCY CHECKLIST FOR HUNTINGTON TRANSFER OF DENSITY FLOW RIGHTS PROGRAM

Town Board resolution 1999-610 of October 5, 1999 accepted *The Principles of Smart Growth & Livability*, as adopted by the Huntington Smart Growth Steering Committee, and advised Departments and Boards in the Town to consider these principles in their review of applications, land use decisions and amendments to the Town Code and regulations.

Check if proposed action/project meets Smart Growth & Livability Principle(s). Otherwise, indicate if principle is not applicable (NA) to or inconsistent (IC) with the proposed action/project or if there is not sufficient information (NSI) to make a determination.

- The proposed action/project encourages comprehensive land use planning that is ongoing, community-based and consistent with the needs and objectives of the local community, adjacent communities, and the region as a whole.
- The proposed action/project encourages development that contains a mix of uses essential to the daily life of its residents, which includes housing, shops, work places, schools, parks, and civic facilities ideally situated within easy walking distances of each other or otherwise within short travel distances. NA
- The proposed action/project encourages land uses that link economic development decisions with environment and quality of life, and protect the property values of its residents.
- The proposed action/project encourages efficient development that is pedestrian-friendly, is attractive, reduces automobile dependency, provides transportation alternatives, and is focused around existing or newly designed transportation centers.
NA
- The proposed action/project encourages development that enhances existing communities, and which particularly targets downtown and neighborhood centers for expanded or new development. The proposed action/project is directed toward areas of existing infrastructure or where infrastructure can be upgraded or introduced to foster redevelopment, rather than toward areas of open spaces, and, when consistent with the community goals, include the recycling of existing structures.
- The proposed action/project encourages a sufficiency of housing to meet the needs of the residents of the Town, and which includes a natural diversity of housing types and facilities to enable citizens from a wide range of age groups, ethnic backgrounds, and economic levels to live within the neighborhood boundaries and interact. NA
- The proposed action/project encourages planning, decision-making, and development practices that emphasize extensive and broad-based community participation, dialogue, the use of visual models, consensus-building and envisioning. NA
- Consistent with the principles of Smart Growth & Livability, the proposed action/project results in:
 - Protection of open space and the environment
 - Strengthening of the local economy
 - An improved sense of community
 - A decrease or stabilizing of traffic congestion
 - A reduction in auto dependency
 - Preservation of historic structures
 - Enhancement of the community character and aesthetics
 - Efficient use of public money
 - Safe and secure communities
 - An improvement in the overall quality of life.

RESOLUTION SCHEDULING SIMULTANEOUS PUBLIC HEARINGS TO CONSIDER ADOPTING LOCAL LAW INTRODUCTORY NUMBER ____ - 2007 AMENDING THE CODE OF THE TOWN OF HUNTINGTON SO AS TO ADD CHAPTER 172 (LAND CONSERVATION), ARTICLE I (TRANSFER OF DENSITY FLOW RIGHTS) AND ACCEPTING THE DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT (DGEIS) PURSUANT TO SEQRA

Resolution for Town Board Meeting dated: November 7, 2007

The following resolution was offered by: Supervisor Petrone

and seconded by:

WHEREAS, the Town Board has been advised by the Suffolk County Department of Health Services (SCDHS) that unless a municipal transfer of density flow rights program exists, Huntington is subject to receiving transfers of flow rights from outside the Town without the Town Board's express consent, and

WHEREAS, the Town Board wishes to establish a policy and procedure that will apply to the transfer of density flow rights in the Town of Huntington to allow protection of natural resources and orderly development consistent with the Town Comprehensive Plan and existing zoning, while meeting standards established in the Suffolk County Sanitary Code, to enable development in accordance with specific zoning classifications and consistent with SCDHS Transfer of Development Rights (TDR) Standards on a receiving property, and

WHEREAS, the Town Board recognizes the potential of a Transfer of Density Flow Rights Program (TDFR) as an open space conservation tool and a responsible economic incentive, and

WHEREAS, the proposed action is consistent with the Comprehensive Plan and Town Board-adopted Principles of Smart Growth and Livability, and

WHEREAS, the Department of Planning and Environment has prepared a Draft Generic Environmental Impact Statement (DGEIS) for the proposed TDFR Program, and

WHEREAS, this action is classified Type I pursuant to SEQRA as it involves the adoption of a policy program (supportive of a County comprehensive resource management plan) and the Draft Generic Environmental Impact Statement has been reviewed by an in-house staff work group and the Suffolk County Department of Health Services and is recommended for acceptance and filing in accordance with NYCRR Part 617;

NOW THEREFORE

THE TOWN BOARD

RESOLVES, that the proposed Transfer of Density Rights Program will meet the objectives of protecting the natural and scenic qualities of open land and enhancing areas of special historical,

cultural, or aesthetic value, and should serve the purpose of conveying rights from environmentally-sensitive property to an area with associated infrastructure to support increased density consistent with zoning; and

BE IT FURTHER

RESOLVED, that the Town Board, as lead agency, hereby issues a Positive Declaration pursuant to SEQRA; accepts the DGEIS; and directs filing of the determination of significance and the DGEIS for the purpose of commencing public review on the proposed Transfer of Density Rights Program; and

BE IT FURTHER

RESOLVED, that the Town Clerk is hereby directed to distribute a copy of this resolution together with all supporting documents to the Suffolk County Planning Commission for its review pursuant to §239-m of New York State General Municipal Law and the Suffolk County Administrative Code; and

HEREBY SCHEDULES a public hearing for the _____ day of _____, 2007 at _____ p.m. at Town Hall, 100 Main Street Huntington, New York, to consider adopting Local Law Introductory Number _____ - 2007 amending the Code of the Town of Huntington so as to add Chapter 172 (Land Conservation), Article I (Transfer of Density Flow Rights) as follows and to accept a Draft Generic Environmental Impact Statement pursuant to SEQRA for the purpose of commencing public review thereon:

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF HUNTINGTON AS FOLLOWS:

LOCAL LAW INTRODUCTORY NO. _____ - 2007
AMENDING THE CODE OF THE TOWN OF HUNTINGTON SO AS TO ADD CHAPTER 172 (LAND CONSERVATION), ARTICLE I (TRANSFER OF DENSITY FLOW RIGHTS)

Section 1. Amendment to the Code of the Town of Huntington so as to add Chapter 172 (Land Conservation), ARTICLE I (Transfer Of Density Flow Rights) to read as follows:

CHAPTER 172
LAND CONSERVATION

ARTICLE I
Transfer of Density Flow Rights

§ 172-1 Legislative Intent

The Town Board recognizes that there are several conservation tools that may benefit the preservation of natural open space, while encouraging responsible economic development. This Article shall embrace such programs and policies that serve to accomplish both objectives. It is the intent and purpose of this article to implement land use policies adopted by the Town Board in conjunction with the update of the Huntington Comprehensive Plan with

specific reference to the conservation of open space, provision of affordable/workforce housing, the support of existing industry, and the necessary and appropriate economic development of the community, particularly for in-fill and Brownfields projects. This legislation shall serve to diminish residential sprawl and enable more concentrated development consistent with town zoning and the Principles of Smart Growth and Livability.

§ 172-2 Definitions

Definitions. For the purposes of this article, the following terms and words shall have the meanings indicated:

DENSITY FLOW RIGHTS – the rights permitted to a lot, parcel, or area of land pursuant to the Suffolk County Sanitary Code for the specific hydrogeological (groundwater recharge) zone in which the land is situated. Density Flow Rights differ from development rights that are defined in § 198-118.2 of Town Code, which are tied to zoning specifications and the transfer thereof allows yield on a receiving site to exceed zoning requirements.

DENSITY RIGHTS BANK – a depository comprised of (1) a database maintained by the Department of Planning and Environment that catalogues density flow rights acquired and/or redeemed by the Town of Huntington as public party and/or private party transfers and (2) a trust-in-agency account into which deposits are made upon sale of publicly-held flow rights and from which withdrawals are made to purchase interests to acquire and conserve open space, as authorized by the Town Board.

LETTER OF INTERPRETATION (PRIVATE) – a letter issued by the Director of Planning and Environment that indicates the number of density credits that could potentially be severed from a proposed sending site through a private party transfer.

LETTER OF INTERPRETATION (PUBLIC) – a letter issued by the Director of Planning and Environment that indicates the number of publicly-held density credits that could potentially be committed to a public benefit receiving project.

PASSIVE OPEN SPACE – land(s) acquired by the Town of Huntington or other governmental agency or conservation organization that otherwise have development potential, but have been or will be maintained for conservation purposes without physical site improvement, except for typical appurtenances, such as trails, benches, signage or pervious parking, and with no maintained or fertilized turf.

PRIVATE PARTY TRANSFER – a conveyance of density flow rights between two individual property owners in support of an application pending review of a board or department in the Town of Huntington.

PUBLIC BENEFIT TRANSFER – a conveyance of density flow rights between the Town of Huntington and another party that supports a defined public purpose or goal (offset) identified in the Comprehensive Plan and is necessary to implement an application pending review of a board or department in the Town of Huntington.

RECEIVING PARCEL(S) – one or more areas of land to which Density Flow Rights generated from one or more sending parcels may be transferred and in which development is permitted to occur, but may not exceed density allowed by existing zoning, by reason of such transfer, preferably hamlet centers, nodes and corridors as identified by the Comprehensive Plan.

SENDING PARCEL(S) – one or more parcels of land from which Density Flow Rights are severed permanently for use in one or more receiving areas in the Town of Huntington.

TRANSFER OF DENSITY FLOW RIGHTS – the Process by which such rights are transferred from one lot, parcel, or area of land in any sending area to another lot, parcel, or area of land in one or more receiving districts or areas in the Town of Huntington. Transfer of Density Flow Rights (TDFR) must result in the permanent protection of open space determined to be of value to the Town’s protected lands inventory, consistent with identified local goals for land protection, and in compliance with SCDHS TDR Standards.

§ 172-3 Authority of the Planning Board

A. Authorization. The Planning Board is authorized to enable the transfer of Density Flow Rights from one (1) or more parcel(s) of land where such authorization shall be found to be beneficial to the town through serving to implement the Comprehensive Plan and its update and to be in accordance with the provisions of this article. Only the Planning Board and the Suffolk County Department of Health Services may definitively determine the Density Flow Rights allotted a particular parcel or area of land.

B. Administration. The Planning Board shall be the sole arbitrator of consistency associated with this article. The Planning Board shall:

1. Resolve interpretation of density flow credits and TDFR Program consistency for private party transfers upon application and review;
2. Issue density flow credit certificates for private party transfers upon the filing of proof that title to the sending site has been transferred to or that a conservation easement has been created in the favor of the Town of Huntington or other governmental or land trust organization approved by the Town Board, and that such deed or easement has been duly recorded by the parties with the Suffolk County Clerk;
3. Determine density flow rights to be dedicated to the Density Right Bank when lands are about to be acquired through purchase, dedication or donation that will remain in their natural state;
4. Determine consistency and resolve recommended density flow credits for public benefit transfer/ redemption from the Density Rights Bank to the Town Board;
5. Retain and catalogue issued certificates for both private party and public benefit projects and redeemed density flow credits in a secure Department of Planning and Environment-managed database;
6. Prepare and distribute an annual report to the Town Board, Town Clerk and Suffolk County Department of Health Services providing statistics on TDFR program activity;
7. Provide standard deed and easement language.

C. Referral to Suffolk County Department of Health Services. The Department of Planning and Environment will refer all applications to the SCDHS to verify the potential density credits that can be sent from or received on any parcel(s) prior to issuance of any letters of interpretation or density flow certificates by the Planning Board.

§ 172-4 Consistency with Comprehensive Plan and Policies

A. Comprehensive Plan. The relevant sending and receiving parcels considered under the Huntington TDFR Law shall be consistent with the Town Comprehensive Plan and any policies adopted by the Huntington Town Board. The TDFR Law enables development in accordance with applicable zoning regulations and the Comprehensive Plan, and will not pose impacts beyond those anticipated at allowable build-out levels.

§ 172-5 Reserved

§ 172-6 Calculation of Credits

A. Allocation of density flow credits. An application for the allocation of density flow credits shall be made to the Planning Board. The Planning Board shall calculate the total number of credits upon the real property within a designated sending area using a density yield factor.

B. Density yield for sending parcels is established by one of two methods consistent with the SCDHS TDR standards.

1. Yield map. If a subdivision requires a road, yield will be based on a yield map that shows 20,000 square foot lots with required site improvements, such as road(s) and recharge basin if necessary.
2. Mathematical formula. The development yield factor for all sending parcels shall be one (1) density flow credit per 20,000 square feet of real property or one (1) density flow credit per lot established prior to 1981 when Article 6 of the Suffolk County Sanitary Code specifying density requirements was established. Barring extenuating circumstances described in the rules for transfer for which a reduction may be taken, the sending site acreage multiplied by 0.5 shall be approximately equal to the density flow credit allocation.

§ 172-7 Rules for Transfer of Density Flow Rights

A. Standards. The following basic standards shall apply for Transfer of Density Flow Rights (TDFR) in the Town of Huntington, in addition to those set forth in the SCDHS TDR Standards.

1. A single density flow credit shall correspond to 20,000 square feet of lot area, which is the equivalent of 300 gallons per day (gpd) flow (e.g., a one acre lot in an R-40 zone could send two density flow credits).
2. Sending sites may generate and receiving sites may accept fractional flow credits broken down to the nearest quarter (75 gpd) of a credit.
3. A density flow credit or portion thereof shall only be received at a site for which yield has been proven to the satisfaction of the Planning Board based on a fully-conforming yield

- study or site plan or which meets Town standards for issuance of a building permit (e.g., single and separate parcel).
4. Location and site quality will be considered before any determination of sending rights is made. If there is any indication of conditions (e.g., proximity to wetlands, wellsite(s), saturated soils) that might not support a septic system on a property proposed as a sending site, the owner/applicant may be asked to provide qualifying data to assist determination of flow rights and the total area from which the rights are calculated may be reduced.
 5. Density flow credits shall not be generated from:
 - (a) Property from which credits or rights have been previously purchased or transferred;
 - (b) Property encumbered by easements, rights of way, or other encumbrances of record, unless such impediments are to be extinguished prior to transfer (e.g., abandonment of a right-of-way);
 - (c) Property improved with buildings or other improvements, unless a distinct open space parcel can be defined therefrom;
 - (d) Property designated as buffer, park set-aside or open space that is held privately and which has been created as a requirement or condition of an approval by the Town Board, Planning Board or Zoning Board of Appeals or specified in Town Code; or
 - (e) Property located within a sewer district or approved for connection to a sewage treatment facility.
 6. Lands within Special Groundwater Protection Areas as defined in the (1993) Long Island Comprehensive Special Groundwater Protection Area Plan should serve primarily as sending areas.
 7. Sending and receiving areas should be in the same groundwater management zone.
 8. Sending and receiving properties need not be similarly zoned.
 9. A separate deed conveying the sending parcel to the Town of Huntington or other governmental or land trust organization approved by the Town Board or deed restriction (e.g., conservation easement or declaration of covenant and restriction) inuring to the Town of Huntington must be filed for the affected sending area before rights are sent from that property. If a less than fee interest is conveyed, it must allow perpetual oversight and access for monitoring by the Town or another government or conservation organization on an approved list. The Director of Planning and Environment shall, with the assistance of the Town Attorney, review the content and form of each such deed or easement prior to its filing for compliance with the requirements of this article.
 10. A sending site may be dedicated/deeded to the Town of Huntington or other governmental or land trust organization approved by the Town Board if it is acceptable to the Town Board or deeded to another interested government agency or conservation organization.
 11. Sending sites will be managed as natural open space in perpetuity without any maintained or fertilized turf.
 12. Density flow rights shall not be received on:
 - (a) Property individually-listed or within a district listed on the National Register of Historic Places or designated by the Town Board, unless the transfer is protective of the historic resource;
 - (a) Lots with an average slope greater than or equal to 10%;
 - (b) Golf courses;

- (c) Property located within a sewer district or approved for connection to a sewage treatment facility;
- (d) Environmentally sensitive sites or sites with features that would be compromised by added density.

13. No TDFR shall result in a transfer into the Town from another municipality or out to another municipality.

B. Procedures for severance and redemption of density flow rights. Separate procedures apply for private party transfers and public benefit transfers.

§ 172-8 Private Party Transfers

A. Request for Letter of Interpretation (LOI). The property owner and contract vendee, if applicable, shall file a signed and notarized application with the Planning Board for a letter of interpretation on a form to be supplied by the Department of Planning and Environment together with the following documents and a five hundred (\$500) dollar application fee:

1. Copy of the property survey;
2. Legal description of that portion of the property to be considered in the letter of interpretation.
3. Copy of latest deed and a covenants and restrictions search;
4. Copy of tax bill;
5. Environmental Assessment Form (only if request is not consistent with an application for which a SEQRA review has been completed); and
6. A letter requesting the transfer, identifying involved properties, and indicating whether the density flow certificates will be utilized for residential, commercial and/or industrial development;
7. Any other documentation required by the Planning Board or the planning staff.

B. Review of LOI Request for Private Party Transfer. Upon the submission of a complete application, the Planning Board will review it with staff support and, if deemed acceptable by the Planning Board, following confirmation by the SCDHS, the Director of Planning and Environment shall issue a letter of interpretation indicating the number of density flow credits that could ultimately be severed from the real property or a portion thereof within sixty (60) days. The property owner has thirty (30) days from the date of the letter of interpretation to appeal the allocation of density flow credits identified in the letter of interpretation to the Planning Board upon written letter of appeal and submission of a filing fee of one hundred (\$100) dollars. A letter of interpretation shall expire two (2) years following its issuance. The expiration date shall be tolled by any pending Town application review.

C. Density flow credit application. Subsequent to receipt of a letter of interpretation, a property owner or contract vendee may request a density flow credit certificate from the Planning Board by submission of the following:

1. The letter of interpretation;
2. A full title search, including a search for any and all encumbrances on the property;

3. A completed density flow credit certificate application form to be supplied by the Department of Planning and Environment;
4. Proposed deed of conveyance and/or conservation easement; and
5. Any other documentation requested by the Department of Planning or Planning Board.

D. Density flow credit certificate. Upon the recording of the appropriate conservation easement in the Office of the County Clerk encumbering all or part of a sending parcel or a signed deed of transfer to the Town of Huntington therefor, and the provision of evidence of same to the Planning Board, the Planning Board shall issue a density flow credit certificate certifying that the holder is entitled to a specific number/fraction of density flow credits. As the density flow credit certificate has real value as an interest in the property, any sale or transfer thereof must be registered with the Department of Planning and Environment.

E. Redemption of density flow credits/Transfer authorization. Density flow credits are considered to be an interest in real property. They may be used to increase the development yields on receiving parcel(s) only in accordance with existing zoning, with SCDHS TDR Standards, and with procedures established by the Town Board consistent with the goals and objectives set forth in the Town Comprehensive Plan. A request to redeem a density flow credit at a specific receiving area may accompany the request for the density flow credit certificate or it may be made within 2 years from the issuance of the Letter of Interpretation. If the transfer request involves an application that is pending before the Planning Board, it may authorize the transfer as a specified item when it issues conditional final approval. If the transfer request is pending review of the Department of Engineering Services, a separate Planning Board resolution shall be required.

F. Registration of Transfer. The Department of Planning and Environment shall track all transfer transactions in a central database and notify the Assessor and Director of Engineering Services when a transfer of density flow rights has been authorized to insure proper assessment of the sending parcel as vacant unbuildable property.

§ 172-9 (reserved)

§ 172-10 (reserved)

§ 172-11 Public Benefit Transfers

A. Procedure. Upon the submission of a complete application for a Letter of Interpretation pursuant to § 172-8A, the Planning Board will conduct a consistency review and consider the availability of density flow credits held by the Density Rights Bank, the public purpose to be served by the pending project that would benefit from the transfer and its relation to fulfillment of Comprehensive Plan goals. Publicly-held density rights may only be considered by the Town Board, if in the Board's discretion, the receiving parcel project meets one or more of the following criteria:

1. Incorporates workforce housing or affordable housing;
2. Provides for significant economic development in a hamlet or village center area;

3. Donates real property or other tangible benefit to the Town of Huntington;
4. Provides significant environmental benefit to the Town of Huntington;
5. Implements the recommendations of the Town's Comprehensive Plan;
6. Achieves some other worthwhile goal or benefit as determined by the Town Board.

B. The Planning Board shall submit its written recommendation to the Town Board within sixty (60) days of the filing of a complete application. The Town Board may consider the recommendation of the Planning Board and issue a determination by resolution. If the Town Board fails to act within ninety (90) days, or fails to extend the period in which to act, the proposed use of public density flow credits shall be deemed to have been denied.

C. Value Determination. If the Town Board affirms the use of credits held by the Density Rights Bank, in conformance with criteria and goals identified in the legislative intent of the chapter for an appropriate public use, the Planning Board will order an independent certified appraisal to determine the fair market value of the requested flow credits, which shall be established by the difference in value between the development potential of the property as exists at the time of application and the development potential with the added flow credits. Upon receipt of the appraisal, the Planning Board shall assess a fee that is payable in an amount equal to or less than the appraised value of the flow rights, based on dollar for dollar in-kind offsets that accompany the proposed project. The fee established by the Planning Board will be referred to the Town Board for review and determination. Once the Town Board establishes the fee, the Director of Planning and Environment may issue a supporting LOI, which shall specify the fee and state the appraised value of the rights and the associated value of any offsets that are considered a condition of the LOI.

D. Density flow credit certificate.

1. Subsequent to receipt of a letter of interpretation, a property owner may request a density flow credit certificate from the Planning Board by submission of the following documents with a five hundred dollar (\$500) fee:

- (a) The letter of interpretation;
- (b) A full title search, which includes a search for all encumbrances on the property; and
- (c) A completed density flow credit certificate application form to be supplied by the Department of Planning and Environment; and
- (d) Payment or guarantee acceptable to the Town Attorney of the established fee, which will be credited to the Affordable Housing Trust Fund.

2. Upon completion of the statutory requirements, the Planning Board shall issue a density flow credit certificate certifying that the holder is entitled to a specific number of density flow credits. Density flow credits shall expire within two (2) years from the date of issuance of the Letter of Interpretation, unless otherwise extended for no more than two (2) years per extension, in the discretion of the Planning Board, for good cause shown. Any application for an extension shall be made prior to the expiration of the original term of the density flow credits, or any extension thereof, and can not be extended by the Planning Board more than twice. Public density flow credits shall be used within six (6) years from the date of issuance of the Letter of Interpretation.

E. Restricted Use of Public Credits

Public density flow credits are only useable pursuant to the grant under which they were created. They are site-specific to the project reviewed by the Planning Board. Resale of public flow credits is strictly prohibited.

§ 172.12 Passive Open Space Review

A. Passive Open Space Review for Density Rights Bank. The Town Open Space Coordinator shall consult the Planning Board with regard to all planned natural area land acquisitions or rededication of Town-held properties for conservation purposes prior to submitting a resolution to the Town Board for dedication and/or funding authorization. All such Town Board resolutions will include reference to the credits to be generated and dedicated to the Density Rights Bank. Where possible, shared acquisitions with other governmental agencies should result in a matching allocation of density flow rights (e.g., 50%-50%).

B. Management and Monitoring of Sending Sites

The Town Department of Planning and Environment is authorized to monitor all sending sites annually to insure that they are being maintained in accordance with this article in a natural passive open space condition. Failure to maintain a sending site in its natural vegetative state and in compliance with the provisions of this article shall be deemed an offense against this article.

C. Donation of Density Flow Rights

The Density Rights Bank may also include density flow rights acquired through philanthropy, such as by voluntary land donation to the Town of Huntington or other governmental or land trust organization approved by the Town Board or conservation easement duly recorded with the Office of the County Clerk, provided that the sending property meets a designated Comprehensive Plan goal. The philanthropy may or may not be by outright gift in full.

§ 172.13 Penalties for Offenses

A person or business entity who commits or permits any acts in violation of any provision of this article shall be deemed to have committed an offense against this chapter and shall be liable for such violation and the penalty therefore, and shall upon conviction thereof, be subject to a penalty of not less than two hundred fifty (\$250) dollars and not more than one thousand (\$1,000) dollars. Each day, or part thereof, such violation continues or is permitted to exist following notification by the Town, or service of a notice of violation or summons shall constitute a separate offense, punishable in like manner.

Section 2. Severability

If any clause, sentence, paragraph, subdivision, section or other part of this local law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair, or invalidate the remainder of this local law, and it shall be construed to have been the legislative intent to enact this local law without such unconstitutional or invalid parts therein.

Section 3. Effective Date

This Local Law shall take effect immediately upon filing in the Offices of the Secretary of State of New York.

* * * INDICATES NO CHANGE TO PRESENT TEXT
ADDITIONS ARE INDICATED BY UNDERLINE
DELETIONS ARE INDICATED BY [BRACKETS]

VOTE: AYES: NOES: ABSTENTIONS:

Supervisor Frank P. Petrone
Councilwoman Susan A. Berland
Councilman Stuart P. Besen
Councilman Mark A. Cuthbertson
Councilwoman Glenda A. Jackson

THE RESOLUTION WAS THEREUPON DECLARED DULY ADOPTED.



Steve Levy
Suffolk County Executive

David G. Graham, M.D., M.P.H.
Acting Commissioner

SUFFOLK COUNTY
DEPARTMENT OF HEALTH SERVICES

DIVISION OF ENVIRONMENTAL QUALITY

TRANSFER OF DEVELOPMENT RIGHTS
STANDARDS

David G. Graham, M.D., M.P.H.
Acting Commissioner

Vito Minei, P.E., Director
Division of Environmental Quality

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.

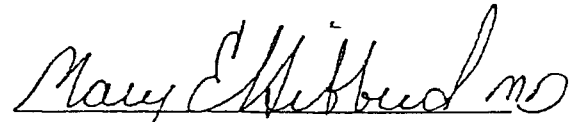
- The maximum allowable sanitary discharge at the site to be developed (receiving area) must be limited to no more than two times Article 6 limits.
- Sanitary systems must conform to all department design standards with regard to sizing, separation distances, etc.
- Public water service must be provided 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

SEQRA DETERMINATION

NEGATIVE DECLARATION

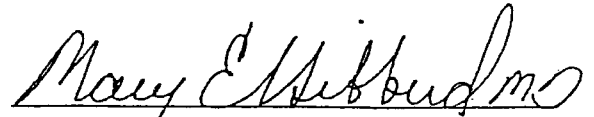
Project Description: Promulgation of Transfer of Development Rights Standards

I, Mary E. Hibberd, M.D., M.P.H., Commissioner of the Suffolk County Department of Health Services, make the following determination, pursuant to Chapter 279 of the Suffolk County Code and Article 8 of the Environmental Conservation Law:

The project is classified as a Type I Action, pursuant to 6 NYCRR, Section 617. The action is a promulgation of standards for regulations adopted under Article 6, Sections 760-605.C, 760-605.D, 760-607.E and 760-607.F of the Suffolk County Sanitary Code.

The Suffolk County Department of Health Services, as lead agency, has determined that the proposed action will not have a significant effect on the environment and does not require any environmental impact statement or any other determination or procedure under SEQRA or 6 NYCRR, Part 617.

Dated: 9/5/95



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

Copies of notice sent to:

Michael D. Zagata, Commissioner, NYSDEC, for publication in the ENB
Mr. Ray E. Cowen, Regional Director, NYSDEC
Mr. David DeRidder, SEQRA Coordinator, NYSDEC
Barbara DeBuono, M.D., M.P.H., Commissioner, New York State Health Department
Roy Dragotta, Esq., Suffolk County Department of Law

WWM-121 (Rev. 5/31/02)

Suffolk County Department of Health Services

Transfer of Development Rights Data Sheet

Applicant/Client _____ SCDHS Ref. No. _____

This form should be completed and submitted with the other requested items in accordance with the instructions in Section III of this document.

SECTION 1 – RECEIVING PARCEL INFORMATION	
SITE DESCRIPTION	RECEIVING PARCEL
1. Indicate the Suffolk County Tax Map Number for the parcel; including district, section, block and parcel number. (e.g., 200-23-9-6.2)	
2. Indicate the name of the street, road, avenue, etc., fronting the parcel	
3. Indicate the Hamlet or Village where the parcels are located, (e.g., Medford, Patchogue, Aquebogue)	
4. Indicate the area of the parcel in square feet	
5. Indicate the Groundwater Management Zone that the parcel is located in, such as Zone 3, 6, etc. (These zones can be obtained from the Department's Groundwater Management Zone Map.)	
6. Indicate the Town zoning category for the parcel (e.g., R-10, J2, etc).	
7. Indicate if the parcel is in conformance with municipal zoning regulations (Yes or No). If no explain in comment section	<input type="checkbox"/> Yes <input type="checkbox"/> No
8. Indicate if public water service is presently available for the parcel (Yes or No). If an extension of a water main is required for servicing the parcel, indicate the cost and distance required in the comment section	<input type="checkbox"/> Yes <input type="checkbox"/> No
9. Indicate if public sewers are presently available for the parcel (Yes or No). If an extension is required to service the parcel, indicate the cost and distance required in the comment section	<input type="checkbox"/> Yes <input type="checkbox"/> No
10. Indicate the depth to groundwater below existing grade for the parcel (feet).	
11. Indicate if there are any designated wetlands or surface water located on the parcel (Yes or No). If yes submit a survey showing the extent of the wetlands or surface water on the property.	<input type="checkbox"/> Yes <input type="checkbox"/> No
12. Comments or Explanations	
FOR OFFICE USE ONLY	
Permissible Lot Yield or Discharge	
Proposed Lot Yield or Discharge	
Remarks	

SECTION II - SENDING PARCEL INFORMATION

SITE DESCRIPTION	SENDING PARCEL
1. Indicate the Suffolk County Tax Map Number for the parcel; including district, section, block and parcel number (e.g., 200-23-9-6.2).	
2. Indicate the name of the street, road, avenue, etc., fronting the parcel	
3. Indicate the Hamlet or Village where the parcels are located, (e.g., Medford, Patchogue, Aquebogue, etc.)	
4. Indicate the area of the parcel in square feet	
5. Indicate the Groundwater Management Zone that the parcel is located in, such as Zone 1, 2, etc. (These zones can be obtained from the Department's Groundwater Management Zone Map.)	
6. Indicate the Town zoning category for the parcel, e.g., R-10, J2, etc	
7. Indicate if the parcel is in conformance with municipal zoning regulations (Yes or No). If no explain in comment section	<input type="checkbox"/> Yes <input type="checkbox"/> No
8. Indicate if public water service is presently available for the parcel (Yes or No). If an extension of a water main is required for servicing the parcel, indicate the cost and distance required in the comment section	<input type="checkbox"/> Yes <input type="checkbox"/> No
9. Indicate if public sewers are presently available for the parcel (Yes or No). If an extension is required to service the parcel, indicate the cost and distance required in the comment section	<input type="checkbox"/> Yes <input type="checkbox"/> No
10. Indicate the depth to groundwater below existing grade for the parcel (feet).	
11. Indicate if there are any designated wetlands or surface water located on the parcel (Yes or No). If yes submit a survey showing the extent of the wetlands or surface water on the property.	<input type="checkbox"/> Yes <input type="checkbox"/> No
12. Indicate if the parcel is vacant (Yes or No). If No, submit a survey showing all structures, sewage disposal systems, water supply facilities and indicate the sewage discharges (GPD) based on design flows.	<input type="checkbox"/> Yes <input type="checkbox"/> No
13. Indicate the method of guaranteeing that the sending parcel will not be developed (sterilized): <input type="checkbox"/> Donation of the property to a governmental agency or environmental group. * <input type="checkbox"/> Combination of the sending parcel with an adjacent parcel. * <input type="checkbox"/> Other: (*Attach a letter of acceptance from the entity accepting the property.)	
14. Comments or Explanations	
FOR OFFICE USE ONLY	
Recommended Lot or Discharge Credit	
Tax Maps Checked and Marked Remarks	

SECTION III - INSTRUCTIONS FOR THE TRANSFER OF DEVELOPMENT RIGHTS DATA SHEET

1. Complete the items in Sections I and II. Attach additional Sections (Pages) for each additional receiving or sending parcel.
2. Submit a recent survey of the parcels showing all improvements that presently exist.
3. Submit a copy of the appropriate Suffolk County Tax Map, depicting the sending parcel(s).
4. Submit a copy of the most recent deed for each parcel, indicating the present owner.
5. Submit an aerial photograph depicting the sending parcel(s) (recommended, not required).
6. Submit a "yield" map, as applicable, that indicates the number of lots that can be created from the parcel in conformance with the Sanitary Code and applicable Town Zoning Codes. (If a yield map is not submitted, the Department may establish the lot yield by a calculation method.)
7. Sign and date this form in Section IV.

SECTION IV - CERTIFICATION

I hereby certify this form has been completed by me and the information that I have supplied, including all the attachments, is true and accurate.

Signature of Preparer _____ Date _____ Phone _____

Print Name _____ Title _____

Mailing Address _____

SECTION V - ADDITIONAL COMMENTS