§ 57-0205. Plan contents.

1. Protection areas. The plan shall provide for protection areas within the study area that are designed to protect and preserve watershed functions in the Peconic Bay watershed by:

(a) preserving lands in their natural state;

(b) promoting compatible agricultural, horticultural, and open space recreational uses;

(c) prohibiting development or redirecting development outside the protection areas;

(d) accommodating necessary management practices;

(e) protecting the quality of surface waters and groundwaters; and

(f) coordinating and providing for the acquisition of private lands interests as appropriate and consistent with available funds.

2. Permit provisions for development. (a) Any person, upon a showing of extraordinary hardship or compelling public need caused by the provisions of subdivision one of this section, may apply to the town board for a permit exempting such person from the development prohibition provided for in subdivision one of this section. Such application for a permit shall be approved if the applicant satisfies the standards for either extraordinary hardship or compelling public need. In the case where a governmental entity is the applicant a permit may be granted only upon a showing of compelling public need.

(b) Extraordinary hardship shall be deemed to have been met if the applicant has established, based upon specific facts, that the subject property does not have any beneficial use if used for its present use or developed as permitted by the provisions of subdivision one of this section and that this inability to have a beneficial use results from unique circumstances peculiar to the subject property which: (i) do not apply to or affect other property in the immediate vicinity; (ii) relate to or arise out of characteristics of the subject property, rather than the personal situation of the applicant; or (iii) do not arise out of the action or inaction of the applicant.

(c) Compelling public need shall be deemed to have been met if:

(i) the proposed development will serve an essential health or safety need of the town;

(ii) the public benefits from the proposed development would override the preservation of the protection area;

(iii) that the proposed use is required to serve the existing needs of the residents; and

(iv) no feasible alternatives exist outside the protection area to meet the established public need.

(d) A permit for development in the protection area shall also meet the following additional standards:

(i) the granting of the permit will not be materially detrimental or injurious to other property or improvements in the protection area in which the property is located or endanger public safety or result in the substantial impairment of the resources of the protected area;

(ii) the permit will not be inconsistent with the purposes, objectives, or general spirit and intent of this title; and

(iii) the permit is the minimum relief necessary.

(e) The town board shall make a decision on such application within sixty days of the receipt of a complete application for a permit.