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## Chapter 8

### ZONING, LAND USE & OPEN SPACE

(02/17/2023 DRAFT) Version 1

#### How Are Various Land Uses Distributed Across the Island?

Land use refers to the distribution of various activities across public and private lands, typically ranging from commercial, industrial, and residential uses to conservation, recreation, and “vacant” land. New York State has developed “property class codes” which provide a uniform system of land use classification used by assessors across the state. While these designations can sometimes be confusing (as when a large, forested property with one house is labeled as a residential use), they provide the most up-to-date record of land use change.

Please note that land use is different than zoning. While land use describes the *current* use of the land, the town’s zoning ordinance regulates land use changes that can be made *now and in the future*. In each of Shelter Island’s three residential districts, two business districts, causeway district and near-shore overlay district the zoning ordinance sets specific standards for uses, densities and dimensions which must be followed. Current uses may generally continue, but any change in use has to go through a permitting and approval process.

According to the assessor’s records, of the Island’s 7,229 acres of total land area, almost 40% is in residential use. The next largest category is recreation and open space, at 35.5%, agriculture at 4% and another 4.6% comprised of commercial, industrial, institutions, transportation, utilities, surface water and waste management properties. These uses, totaling about 84.1% of the Island’s landscape, are unlikely to change significantly. The remaining 15.9% is made up of “vacant” land uses, meaning it is unprotected, in private ownership and zoned for residential or commercial development.

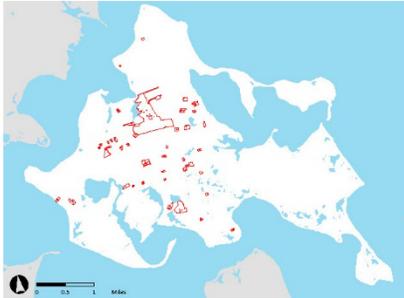
<b>Shelter Island Land Uses</b>			
<b>Land Use</b>	<b>Number of Parcels</b>	<b>Acreage</b>	<b>Percentage</b>
Agriculture	5	287.4	4.0%
Commercial	94	107.98	1.5%
Commercial Vacant	21	18.59	0.3%
Industrial	6	14.07	0.2%
Institutional	25	62.77	0.9%
Recreation & Open Space	91	2,566.52	35.5%
Residential	2,458	2,885.66	39.9%
Residential Vacant	511	834.91	11.5%
Surface Water	4	41.76	0.6%
Transportation	53	78.66	1.1%
Utilities	3	9.9	0.1%
Vacant	146	3,03.95	4.2%
Waste Management	4	17.27	0.2%
<b>TOTAL</b>	<b>3,421</b>	<b>7,229.44</b>	<b>100%</b>
Source: Town of Shelter Island Assessor's Data, 2020			

Shelter Island was dominated by agriculture and fishing, within a natural setting of forests, ponds, marshes, inlets, and beaches. Structures were isolated on large farms and estates, or clustered within small village a few centers. According to the Assessor's records, just 65 structures existing today date from before 1865. After the Civil War, the growth of Shelter Island Heights and later resort development transformed the island into a summer colony, with 265 structures built between 1865 and 1900, and another 315 built by 1940. The post-war suburban boom saw another 375 structures by 1960, 633 from 1961-1980 and 659 from 1981-2000. In the first twenty years of this century growth has slowed somewhat, with 445 new homes. Another way of looking at it, after three centuries of European settlement, in 1951 the Island had 780 structures, most of them single-family homes. In the following 50 years this total tripled to 2,310 structures in 2001, and 448 structures have been added since then, for a total of

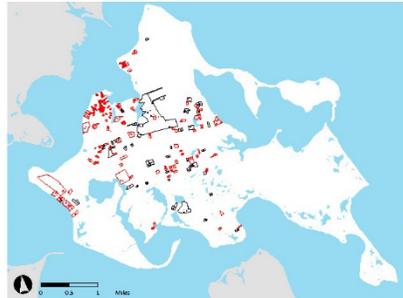
2,756.

### Shelter Island's Development Over Time

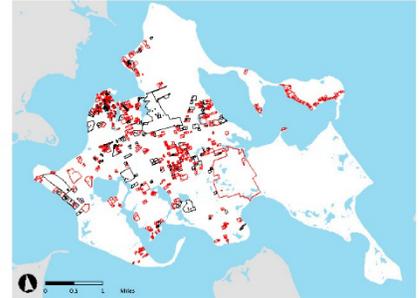
The maps below show the new development in each significant era of the town's history. This is based on the date of construction of structures shown in the assessor's table. It doesn't show all of the houses that once existed but are now gone, but it does give an idea of how development proceeded over time. In each map, parcels with new development within the era are shown in red.



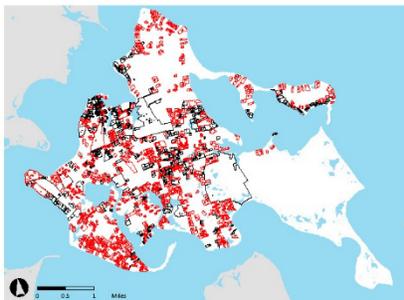
Early History (1700s to 1860)



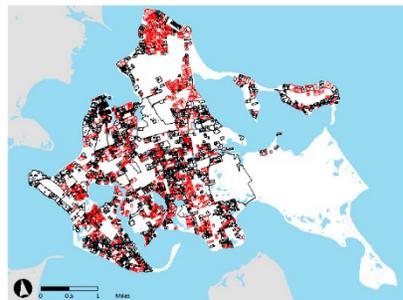
Post-Civil War Boom (1860 to 1899)



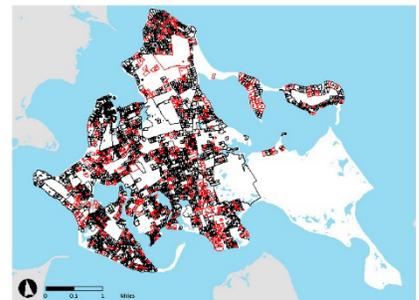
Hotel Heyday (1900 to 1939)



Postwar Suburban Growth (1940 to 1979)

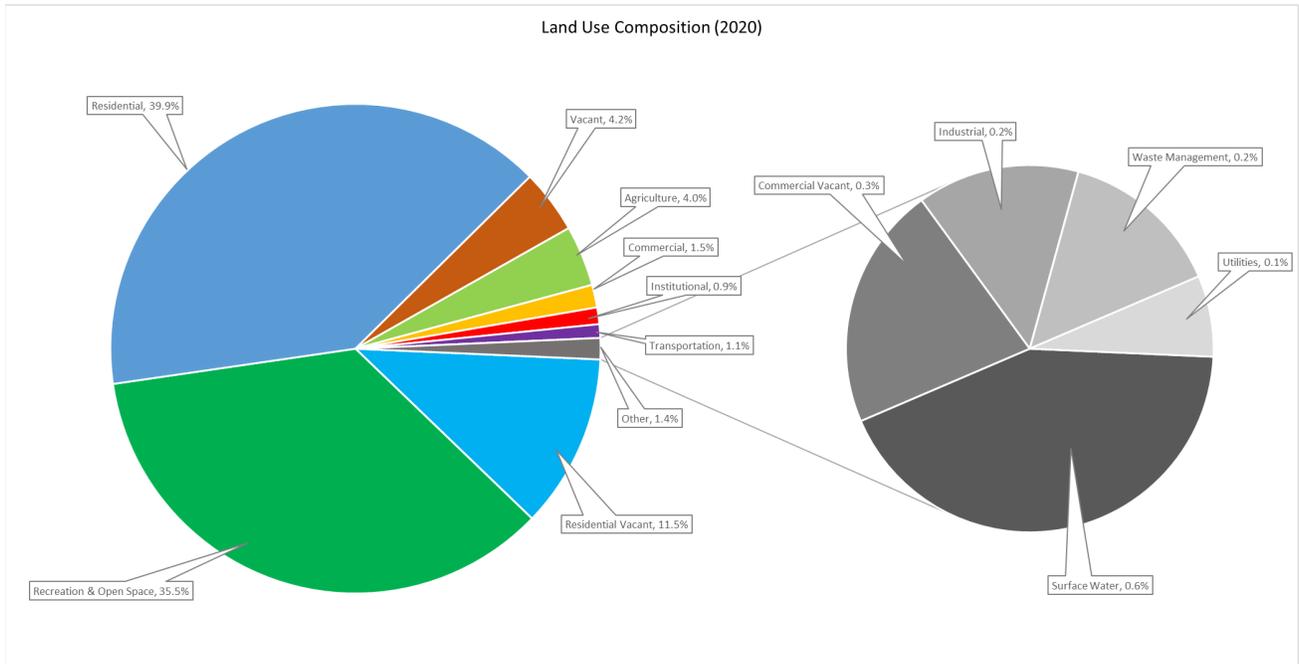


Maturing Suburbs (1980 to 1999)



21st Century (2000 to 2020)

Protection of the 2000-acre Mashomack Preserve in 1980, and conservation of other large parcels such as Sylvester Manor, has balanced this residential growth with preservation of more than a third of the island. The relatively low density required by the Island's zoning, together with the complex shoreline of coves and inlets, has helped the island retain something of its historic rural character. But for much of the island the traditional rural landscape of farmsteads and villages surrounded by open space has evolved into more of a suburban landscape of roads lined by house lots and small open spaces surrounded by subdivisions.



Source: Town of Shelter Island Assessor's Data (2020)

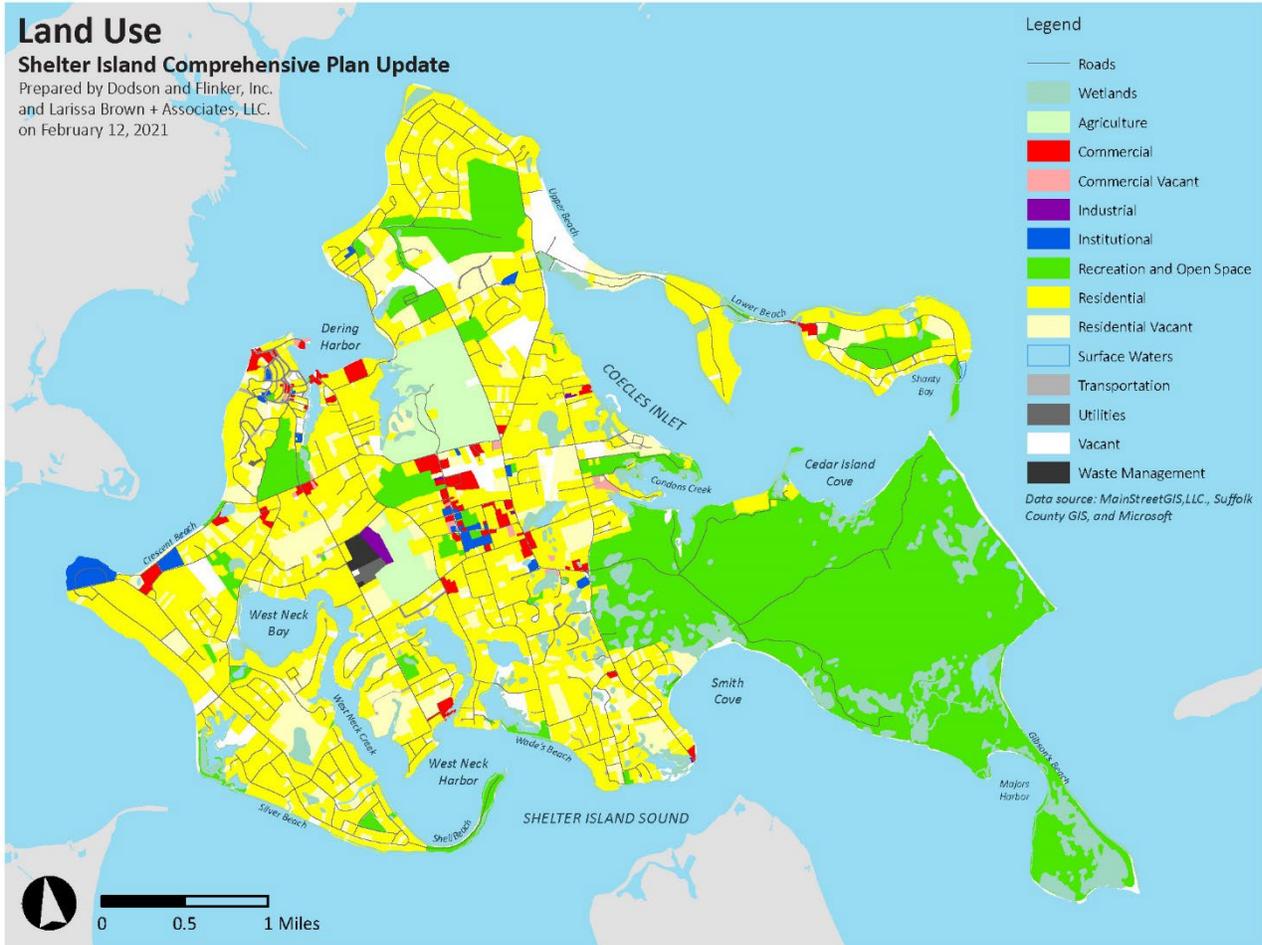
### How Much of the Island Has Been Permanently Protected?

Mid-century growth and change on Shelter Island inspired a conservation movement that continues to this day. Close to 2,600 acres of land have been permanently protected or otherwise placed into an open space use that is unlikely to change. The largest area is the 2,039 acres of the Mashomack Preserve, and there are more than 24 other properties that are open to the public. The Open Space and Recreation Map shows protected and publicly owned park and areas in dark green. In light green are privately owned open space parcels that are unprotected. This includes recreational land such as the Gardiner's Bay Country Club, and a portion of the lands owned by the Sylvester Manor Educational Farm. It also includes the Nature Conservancy's Mashomack Preserve, which is preserved as a matter of policy, but not in fact legally protected. In beige are publicly owned properties classified by assessor as "vacant land."

# Land Use

## Shelter Island Comprehensive Plan Update

Prepared by Dodson and Flinker, Inc.  
and Larissa Brown + Associates, LLC.  
on February 12, 2021

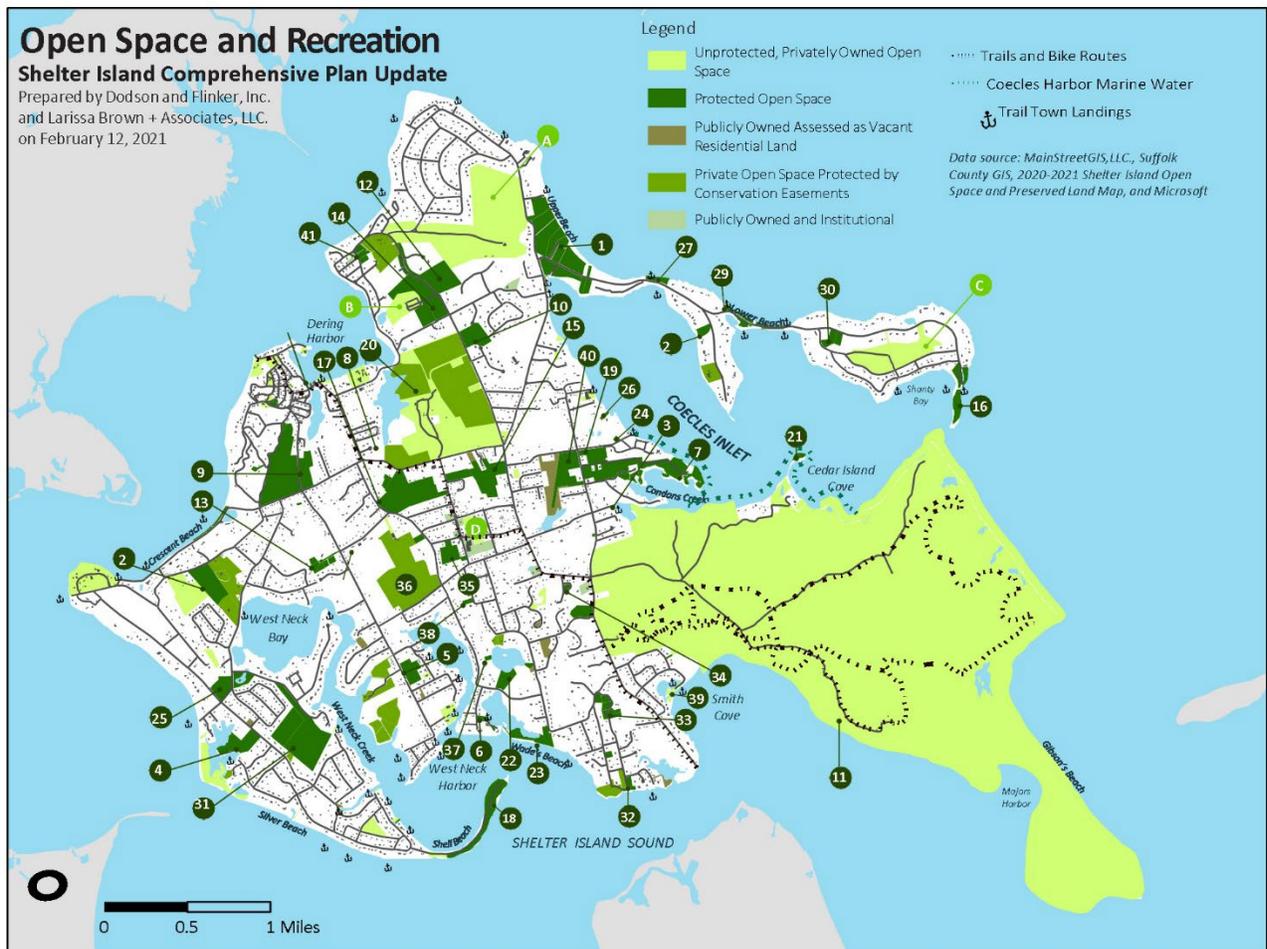


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Draft: 2/22/21

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Map #	Property Name (or Owner/MGR)	Map #	Property Name (or Owner/MGR)	Map #	Property Name (or Owner/MGR)
1	Bunker City County Park	16	Reel Point	31	Westmoreland Farms (Town/County)
2	Cackle Hill Preserve	17	Sachem's Woods	32	Shorewood (PLT/Shorewood Civic Association)
3	Congdon Creek Shorefront Preserve	18	Shell Beach	33	Osprey Rd (Town)
4	Crab Creek Preserve	19	St. Gabriel's Meadow	34	Willow Pond Park (Town)
5	Dickerson Pond Park	20	Sylvester Manor Educational Farm	35	Union Free School Playfields (PLT/ UFS)
6	Dickerson Creek Overlook	21	Taylor's Island	36	Ryan Horse Farm (PLT)
7	Foxen Point Tidal Wetlands	22	Turkem's Rest Preserve	37	Dickerson (PLT)
8	Gardiner's Creek Preserve	23	Wades Beach	38	Sunshine Road Park (PLT/Town)
9	Ice Pond Park	24	Wayside Park	39	Smith Cove - Underwater Land (NYS)
10	Locust Woods Preserve	25	West Neck Preserve	40	Klenawicus Airfield (Town CPF)
11	Mashomack Preserve	26	Cedar Island Overlook	41	Dering Harbor Village Lands
12	Midred Flower Hird Nature Preserve	27	PLT/County Conservation Land	A	Gardiner's Bay Country Club
13	North Menantic Preserve	28	PLT/Nature Conservancy	B	Catholic Church Cemetery
14	Old Lima Bean Fields	29	Lower Beach (PLT/County/Town)	C	Ram island County Park (owner: Os- prey Acres)
15	Old Nursery Woodlands Preserve	30	PLT/Town	D	Shelter Island Cemetery



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Draft: 2/22/21

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## How Does the Town Pay for Conservation?

The 2,039-acre Mashomack Preserve was created by the Nature Conservancy in 1980, following the largest fundraising campaign in its history to that point, with over 1700 contributors. Similarly, 105 acres of the 240-acre Sylvester Manor property has been permanently protected through a combination of donations from the family (owners since 1652), purchase of development rights by the town and county, and funding from the Federal Farm and Ranchlands Protection Program. The entire Sylvester Manor property is now owned by the non-profit Sylvester Manor Educational Farm and managed for conservation, historic preservation, agriculture, and education.

Conservation of many properties, including part of Sylvester Manor, has been supported by local funds raised through the Peconic Bay Region Community Preservation Fund (CPF). Established through a referendum in 1998, the CPF receives the revenue from a 2% transfer tax on real estate transactions occurring in East Hampton, Riverhead, Southold, Southampton and Shelter Island, with each town receiving the tax from any transactions within its borders. The first \$250,000 of the purchase price is exempt from the tax. The money raised may be used to protect open space, farmland, and historic structures. In 2016 another referendum was approved in all five towns that extends the CPF until 2050 and gives towns the option of investing up to 20% of CPF revenues in water quality projects such as septic system upgrades and then in 2022 another referendum was passed that adds .5% to the CPF transfer tax for housing initiatives. Shelter Island's CPF revenue totaled \$1.13 million in 2018, increased to \$1.55 million in 2019, and \$3.08 in 2020 and peaked at \$3.87 in 2021 and dropped back down to \$2.23 Million by December of 2022.

### **What Is the History of Planning and Zoning on Shelter Island?**

Following a boom in home construction after World War II, in 1957 Shelter Island was among the first towns on the East End to adopt zoning, which established a new pattern of two-acre house lots across most of the Island. While this reduced the overall density of development, growth continued, with more than 1000 homes built from 1960 to 1990. In 1991 the Town Board established a Comprehensive Plan Committee, which worked with planning consultant Phil Herr to create a comprehensive plan that was adopted in 1994. The plan projected growth in housing from 2,200 units in 1990 to 3,000 housing units by 2010 (there were instead about 2,600), and even though growth rates moderated somewhat many of the issues discussed in the plan economic development, housing, town services, taxes, environmental protection, and water supply are still top of mind.

In 2008 the Town Board formed a Comprehensive Plan Advisory Committee to review progress on implementing the 1994 plan and draw up a fresh list of actions to achieve its goals. The Committee developed a detailed Vision Statement focused on protecting the Island's unique character and quiet sense of place, and highlighting the threats posed by social, environmental, and economic trends. The 2008-2009 plan update recommended a list of 39 "new or renewed" initiatives, ranging from protection of marine waters and aquifers to strategies for economic development, transportation, community facilities and zoning. While the plan update was not adopted, it continued to inform the work of town departments and committees in the following decade.

## Zoning Districts and Basic Dimensional Requirements

Zoning District	Minimum Lot Size	Maximum Impervious Lot Coverage	Lot Frontage	Front/Side/Rear Setbacks (in feet)	Maximum Building Height
A Residential	40,000 sf	25% buildings, 40% overall	140 feet	40/25/25	2 stories/ 35 feet
AA Residential	80,000 sf	25%/40%	160 feet	50/30/30	2 st./35'
C Residential	40,000 sf	30%/40%	100 feet	30/10/10	2 st./35'
B Business	40,000 sf	70%/75%	100 feet	30/10/10	2 st./35'
B1 Restricted Business	40,000 sf	50%/75%	100 feet	30/10/10	35 feet
Causeway District	80,000 sf-200,000 sf	varies	160'	50/30/30	25 feet

Source: Shelter Island Town Zoning Code

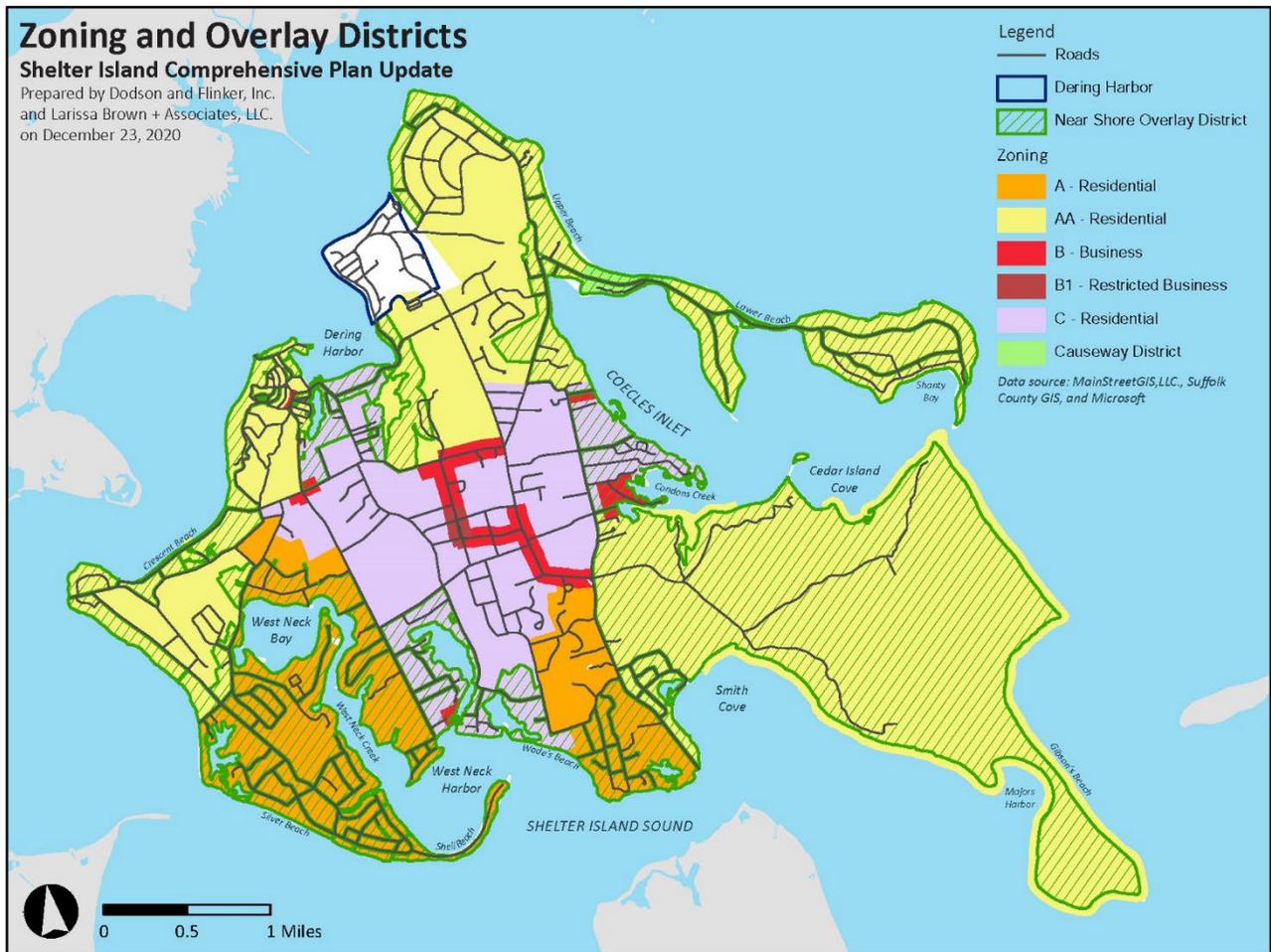
### How Does the Town's Zoning Shape Land Use on Shelter Island?

Section 133 of the Town Code establishes six zoning districts, with three residential districts with 40,000-80,000 square-foot minimum lot size, and two business districts with 40,000 square foot minimum lots. The sixth district is the Causeway District, established in 2011 to protect part of the causeway to Ram Island.

In addition to the base zoning districts, section 133-12 of the Zoning Code establishes a Near Shore and Peninsular Overlay District that is designed "...to protect selected areas of unique importance to the water and other natural resources of the town." This requires a 75-foot shoreline vegetative buffer with restricted uses; requires dwellings and other structures, including wastewater systems, to be at least 100 feet from tidal or freshwater wetlands; requires permeable pavement for driveways; and establishes standards for onsite stormwater recharge.

Since zoning was adopted by the town, the base density of one- and two-acre lots has limited the overall amount of growth, but the resulting pattern of that growth has more to do with the rest of suburban Long Island than it does with the traditional pattern of development on Shelter Island. Shelter Island was once marked by compact village centers surrounded by open countryside, farms and estates. The one and two-acre lots required by

zoning are too big to allow for walkable centers in places that could best support them, while allowing large areas of important natural and cultural landscape to be fragmented by suburban house lots.



Town of Shelter Island, NY | Comprehensive Plan Update

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## How Much Future Development is Possible on Shelter Island?

The potential for future growth can be estimated by identifying all of the land available for additional development and calculating the potential “buildout” on those parcels based on current zoning. Assuming current trends continue, one can predict that every developable parcel could eventually be developed according to the restrictions of zoning, building codes and environmental regulations. The buildout is simply the calculation of the resulting

number of new homes and area of commercial buildings that could be built and can be expressed either as an end-state number, or projected over various time periods.

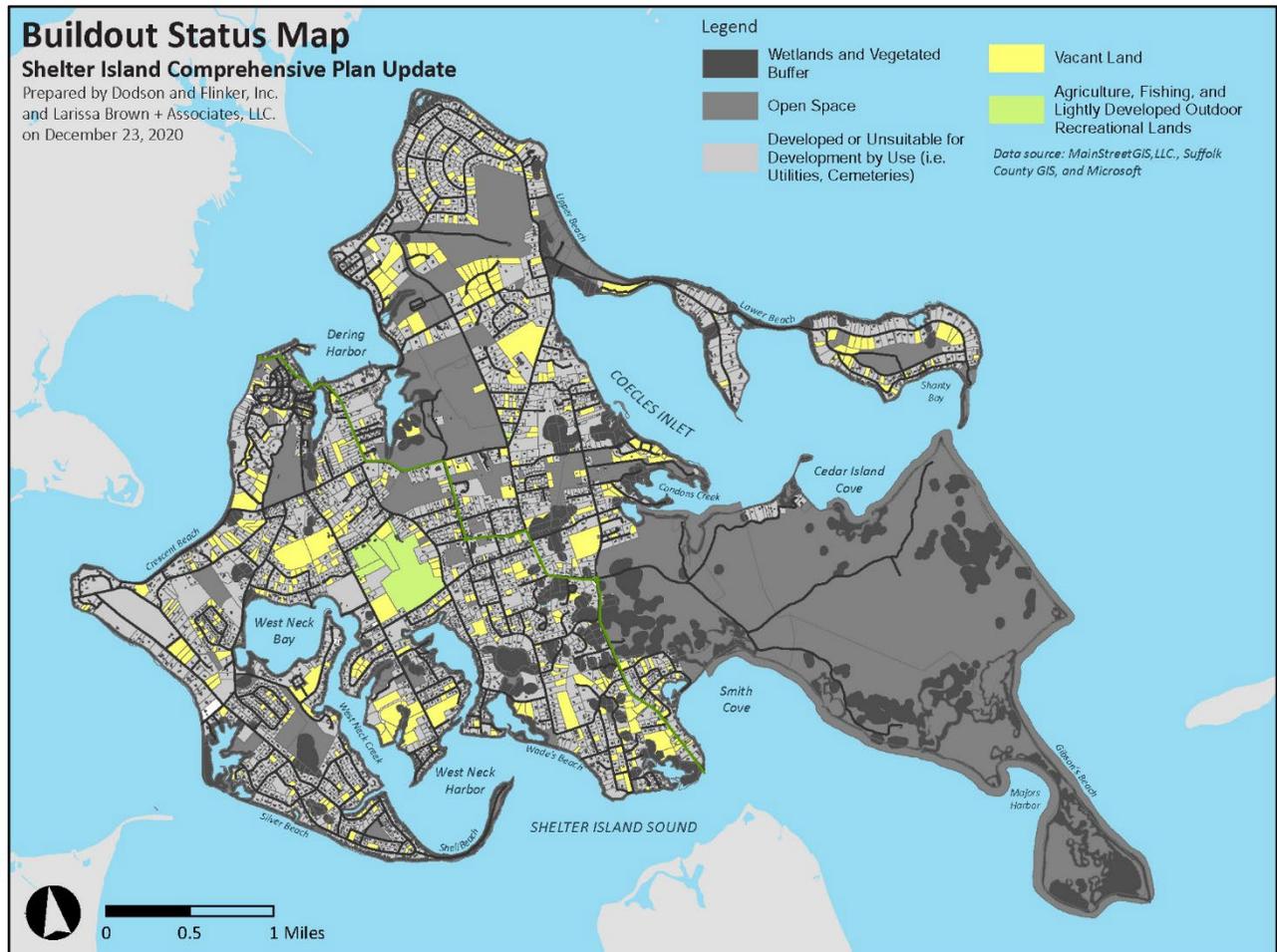
The first step in calculating the buildout is creation of a “Buildout Status Map” that identifies privately-owned, vacant land without significant constraints to development. This is a subtractive process, first eliminating parcels that are either fully developed or full-protected, then taking out roads, utility corridors, public facilities and other land unlikely to be developed because of use or ownership, and finally subtracting lands which are protected by environmental regulations or which are simply too steep or wet to be developable.

The Buildout Status map includes:

- Developed land, shown in light grey, including parcels classified by the assessor as developed lots. (This map does not indicate potential for subdivision of developed lots that are large enough for more than one house lot. Larger lots and properties with lower value structures may still be subject to redevelopment.)
- Protected land, shown in dark grey, including publicly owned parks, recreational and wildlife areas, and protected conservation land. These areas would either be impossible or extremely difficult to develop. (Note that for this purpose we are including the Mashomack Preserve and that part of Sylvester Manor which is not under a conservation easement. Even though those lands are not legally protected, because of the goals and policies of the non-profits that own them they are very unlikely to be developed in the future.)
- Undevelopable land, shown in black, including freshwater and tidal wetlands and the regulated 75’ vegetated buffer where most new building construction is prohibited by local zoning and state regulation.
- Land otherwise unsuitable for development, also in light grey, including cemeteries and utility properties.
- Unprotected land, shown in light green, that is less likely to be developed considering current use, including agriculture and recreation uses such as golf.
- Vacant, developable land, shown in yellow on this map, represent parcels that are subject to further development.

The Buildout Status map illustrates that there is development potential on lots scattered throughout the town, amounting to more than 1000 acres. Assuming that a private water

supply well and wastewater system could be accommodated on these lots, each of these parcels could someday be developed for one or more new homes.



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Draft: 2/22/21

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**Findings:**

- For much of its history after European settlement, Shelter Island remained a quiet rural town built around agriculture, fishing, and other natural resources.
- The 1860 population was only 506 people.

- From the 1870s through the 1920s, the Island grew into a summer resort, and population more than doubled to 1,113 in the 1930 Census.
- After a decline in the depression, post-war growth saw the population double again by 1990, to 2,263 people.
- Population growth was mirrored by construction of new homes, many of which supported a much larger population of summer residents.
- Zoning adopted in 1957 put an upper limit on growth, but established a new, more suburban growth pattern.
- Conservation of Mashomack, Sylvester Manor and dozens of smaller properties has protected more than a third of the island.
- About 15% of the Island consists of vacant, unprotected parcels, with about 1,000-1,100 acres of developable land.
- Additional growth is likely as existing developed parcels are subdivided and small homes are replaced by larger one.

### **Challenges:**

- Development of vacant parcels is likely to accelerate over the next decade
- Expansion and replacement of smaller homes and subdivision of previously developed parcels are likely to accelerate. As available land is used up, land values rise.
- Current zoning limits overall growth, but promotes a suburban growth pattern.
- Lack of public water supply and wastewater systems limit the opportunity for more compact growth patterns.
- The CPF provides a reliable source of conservation funding, but rising values limit its impact.
- Protecting open space and limiting growth can drive up prices and limit access to all but the wealthy.

### **Goals & Objectives:**

- Guide inevitable change so that the most important qualities of Shelter Island are maintained in doing that respect the interests of both those whose livelihoods are based on Shelter Island and those whose incomes are drawn from other sources.

- Accomplish guidance with as little change and the content of public rules as is necessary since many have made commitments in reliance on those rules.
- Assure that the islands scarce resources of land and water are not wholly preempted by development in the next generation but rather so that potential for growth is reserved for later generations as well.
- Selectively preserve open space to provide balance in the islands environment and help accomplish the above goals by the protection of locations of special importance because of their resource value, visual or historic significance.

**Action Items:**

- Limit the development of pre-existing nonconforming small lots in sensitive shoreline areas
- Consider size, footprint, lot coverage, setbacks and height restrictions in the definition of SFLA, to establish tighter limits for house size. Including criteria for judging variances to the limit.
- Establish a limit on size of a knock down house linking footprint to lot size and the size of house being removed or the relative size of neighboring houses
- Conduct a review of town codes interviewing and soliciting boards and committee members, lawyers, applicants and citizens to identify areas of code that cause confusion, create delay, and are ineffective. Consider utilizing outside specialized counsel to review and redraft local code and coordination with the town attorney
- Explore the possibility of requiring major subdivisions to commit more than 10% of their land area for open space and to donate one lot for affordable housing

- Strengthen the town's authority to select open space land in subdivisions or to refuse inappropriate land offer to satisfy open space requirements. Test proposed open space dedication with subdivisions against the priority system used in CPF. Accept dedication of open space only when it meets criteria for high priority lands. In other cases, insist on developers paying a fee in lieu of dedication.
  
- Gain for the town a right of first refusal on key lands in public or semi-public ownership, to permanently assure that the public interest is protected in the event of change in ownership
  
- Explore the creation of a nonprofit Shelter Island Land Trust, dedicated to the acquisition of land or rights in land, and management of those properties to include community housing.
  
- Frame necessary zoning changes to coordinate development with agreed upon constraints: aquifer, transportation and other infrastructure, quality of life, and protection of natural resources in the environment
  
- Make 2<sup>nd</sup> floor apartments obtainable via zoning code providing year-round income to local businesses. consider offering favorable property tax incentives to make such apartments affordable.
  
- Review current business zones B and B1 zones and revise the business zone to encourage the concentration of local retail units in hamlet areas including second floor apartments above retail shops using shared septic and wells but with careful consideration of traffic and parking strong limitations on signs and lighting illumination.
  - Consider the appropriateness of continuing the distinction between the B and B1 business zones exploring whether compatibility standards would allow merging them

- Consider whether the pattern which would result from full development under current business zoning is really the pattern which is desired
- Review current zoning and the amendments proposed for implementation in this plan to assure that the present potentials for operating home-based businesses and the Residence C District are not diminished; and explore means of broadening opportunities for home based businesses island wide, consistent with protection of environmental and quality of life concerns. Review and update the list of qualifying businesses and residential zones focusing on the potential and real impacts of noise smell visual traffic and inappropriate use for residential zone.
- Create an industrial/commercial zone separate from the retail business zone whereby warehouses, workshops, storage or garaging facilities can be shared in units with reasonable operating guidelines and codes (Good idea but where????)
- If public water and sewer are introduced to an area development will not exceed 4 dwellings per acre? 4 residences? 6 living units? Suffolk County standard for double density?

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