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November 20, 2024

Hannah Motyka
Senior Environmental Scientist and Project Manager
Nelson Pope Voorhis
70 Maxess Road
Melville, New York 11747

RE: Lewis Road Planned Residential Development (PRD), East Quogue
Request for Authorization to Remove SPB Damaged Trees and Branches to
Reduce Fire Risk at the Lewis Road PRD Site

Dear Ms. Motyka:

Timothy C. Hubbard
Member

Maria Z. Moore
Member

Daniel J. Panico
Member

Edward P. Romaine
Member

On November 7, 2024, the Central Pine Barrens Commission received the materials you provided in connection with the Discovery Land Ventures (Discovery) request to remove dead trees from portions of the Lewis Road Development Project Site. Discovery asserts that the trees marked for removal are dead due to infestation by Southern Pine Beetle (SPB) and pose a significant threat to public safety.

In 2021, the Commission determined that the Lewis Road Project was consistent with the provisions for the Central Pine Barrens Comprehensive Land Use Plan. As part of its application to the Commission, Discovery offered to protect certain areas of the Project Site through a Declaration of Covenants and Restrictions (C&Rs), recorded on February 10, 2023, while retaining the right to manage certain portions of the protected area under a Conservation Management Plan (CMP). Discovery prepared and the Commission approved the CMP on May 15, 2024.

Discovery represents that the SPB infested dead trees are in 13 areas denoted as “Principal Areas of Concern” (PAOC), A through M. The areas are subject to the CMP and otherwise protected as “Open Space Areas” by the C&Rs. Discovery’s materials explain that:

Trees targeted for removal will be felled, as necessary and chipped. Chipped material will be removed from site and disposed of in an approved upland location. Less amounts of chipped material may be retained on site to provide coverage for any areas of bare soil.

After removal of high risk material, restoration by replanting with native pitch pine and oak species and other native shrubbery will be utilized for revegetation to support “self heal” restoration.

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Based on information provided by Discovery, the removal of dead trees in the areas identified in this material is consistent with the C&Rs and the CMP. Section 5(n) of the C&Rs states:

(5) That at no time after the filing of the subdivision map in the Office of the Suffolk County Clerk shall portions of the property designated as Open Space or Conservation Easement or both as more specifically described in Schedule “B” annexed hereto (hereinafter

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collectively referred to as “Open Space Areas”) be disturbed for development. Open Space Areas shall remain in their current, undisturbed, natural state; and to prevent the degradation of loss of the ecological and aesthetic value of Said Open Space Areas and to guard against any physical encroachment and the lateral movement of silts and fertilizers, the Declarant, their heirs, legal representatives, successors and assigns hereby covenants and agrees that the following shall be adhered to on and within the Open Space Areas:

(n) Notwithstanding any provisions of this Declaration to the contrary, nothing herein shall be construed as precluding the Declarant, their heirs, legal representatives, successors and assigns, from instituting necessary conservation measures to protect and conserve the natural resources and features which are the subject of this Declaration, provided that said conservation measures protect and conserve the natural resources and features which are the subject of this Easement, provided that said conservation measures are part of a CONSERVATION MANAGEMENT PLAN which must be submitted to and approved by the Commission or its successor. Said plan may include the selective removal of noxious, dead or decayed vegetation and shrubbery, including tree trunks and limbs.

This determination is not an evaluation of the risks, if any, to the Discovery, its residents, or guests, or others on the property, posed by the trees or other vegetation in the PAOCs or any other area of the Project Site. The Commission makes no representation as to the same. The Commission is not qualified to make such a determination.

Please be advised, despite the presence of hazardous conditions, the timing of cutting and removing trees may be restricted to seasonal periods to protect the Northern Long-eared Bat, a New York State and Federal listed Endangered Species. Please consult with Southampton Town and the New York State Department of Environmental Conservation to adhere to protective guidelines and requirements for this and other listed species and regulated habitats on the property.

This determination is limited to the tree removal activities described in your letter dated November 6, 2024 and illustrated in Figure 1 titled “Southern Pine Beetle Impacted Areas of Concern Map.” Prior to commencing any activities related to dead tree removal, please submit a revised CMP with maps of the PAOC identified. Please ensure that the annotated CMP contains scaled and certified survey(s) of the PAOC in sufficient detail so that the Discovery activities can be monitored and measured. The map must be on a scale to allow Staff to determine whether activities outside a PAOC have occurred. In such event, Discovery will be in violation of the CMP.

The Commission will notify Discovery upon its receipt of such materials and its approval of the same. Upon such notification, Discovery may commence the authorized activities. When the activities are complete, Discovery must submit photographs of the activities and provide a certified survey of actual PAOC and the final planting plan after planting occurs in Spring 2025. It is the intent of the Commission to maintain a precise description of the PAOC areas and the activities occurring thereon. This will allow continuing monitoring of Discovery’s adherence to the CMP.

When updating the CMP to add the PAOCs, please cross reference the location of each PAOC with the Open Space Area defined in the C&Rs and the final plat maps recorded by Discovery, Sheets 1 through 38, dated December 2021, last revised January 13, 2023, stamped July 21, 2023 by the Suffolk County Department of Health Services and stamped received by the Commission on November 30, 2023. Sheet M-

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4 is a small scale overview composite map of the Open Space Areas in the Project Site that can be used to cross reference the location of each PAOC.

Lastly, in May, Discovery committed to the Commission that Discovery would begin restoring and revegetation areas of the site in accordance with the CMP starting in the fall of 2024. To date, a report of these efforts has not been submitted. Please provide a report of Discovery's activities by year's end. As with the PAOC, the report should contain scaled and certified maps of the restored areas to assist the Commission continued monitoring of Discovery's compliance with its representations to the Commission.

Please feel free to contact me if you have any questions.

Thank you for your attention.

Sincerely,

Julie Hargrave
Policy and Planning Manager

cc: Judy Jakobsen, Executive Director
John Milazzo, Counsel
Brant Reiner, Partner, NPV
Jessica Insalaco, Discovery