

**Central Pine Barrens Joint Planning and Policy Commission
Findings Statement and Decision for
Lewis Road Planned Residential Development Subdivision
Assertion of Jurisdiction Application**

**State Environmental Quality Review Act
January 20, 2021**

Certificate of Findings to Approve

This notice is issued pursuant to the State Environmental Quality Review Act (SEQRA) and its implementing regulations. This findings statement has been prepared pursuant to the requirements of SEQRA's regulatory requirement that no agency shall make a decision on an action which has been the subject of a Final Environmental Impact Statement (EIS) until a written findings statement has been prepared concerning the facts and conclusions of the Draft and Final EIS and any supplemental EIS relied on to support its decision. The Town of Southampton Town Board (the Town Board) is the lead agency pursuant to SEQRA for this Project. The Central Pine Barrens Joint Planning and Policy Commission (the Commission) is an involved agency.

This is the Commission Findings Statement on the Project.

I. Introduction and Background

The Lewis Road Planned Residential Development is the Project. Discovery Land Ventures (DLV) and affiliated entities propose to undertake the Project. It is a clustered residential subdivision with 118 seasonal single-family residences, 12 year-round workforce housing residences and an 18-hole private golf course for the residents and their guests on a 608.45 acre project site (the Project Site) in the Central Pine Barrens area as defined by the Long Island Pine Barrens Protection Act. Associated development includes a tertiary wastewater treatment plant, recreational amenities including a clubhouse, swimming pools, sports ballfields and tennis courts, two ponds, roads, drainage reserve areas, other amenities, parking areas, lighting, landscaping and other infrastructure. A main access road will be developed from Lewis Road. Private roads will be constructed in the Project Site.

On December 23, 2019 after the Commission last asserted jurisdiction over the Project on May 15, 2019, DLV submitted to the Central Pine Barrens Joint Planning and Policy Commission (the Commission) an application for an Assertion of Jurisdiction for the development project known as Lewis Road Planned Residential Development (PRD), a seasonal resort with residential and golf course uses.

The Project Site is located east of Lewis Road, in the vicinity of Spinney Road, north of the Long Island Railroad tracks, north and south of Sunrise Highway, west of Malloy Drive, in the hamlet of East Quogue, Town of Southampton, New York. The Project Site is currently undeveloped and naturally vegetated except for approximately 31.5 acres identified as previously disturbed. It is in the Town's Country Residence 200 (CR 200) Zoning District.

Four main areas define the Project Site. Two of the areas contain both lands in the Core Preservation Area and the Compatible Growth Area of the Central Pine Barrens, the Hills South (340.91 acres, CGA and Core) and the Parlato assemblage (120 acres, CGA and Core) One of the areas is entirely in the Core, the Hills North (86.82 acres, Core), and one is entirely in the CGA, the Kracke properties (61.26 acres, CGA). In the Core Preservation there are approximately 140 acres and in the CGA there are approximately 468 acres. In the CGA assemblage, there are approximately 62 acres in an area designated by the Commission as a Critical Resource Area (CRA). The Project Site is composed of 176 Suffolk County Tax Map Parcel Numbers as set forth in Exhibit A.

DLV proposes to clear approximately 171 acres of the CGA, outside of the CRA. Four hundred thirty-seven (437) acres will be set aside as open space. DLV will establish a Homeowners Association to manage developed facilities including the golf course and approximately 230 acres of open space. Two hundred seven acres will be dedicated to the Town for open space purposes.

DLV's affiliates are DLV Quogue Owner, LLC, DLV Parlato Parcel 1, DLV Parlato Parcel 2, DLV Parlato Parcel 3, DLV Parlato Parcel 4, LLC, and DLV Quogue LLC

II. The Long Island Pine Barrens Protection Act of 1993, the Commission, Development, and the Central Pine Barrens Comprehensive Land Use Plan

The Commission was created by the Long Island Pine Barrens Protection Act (the "Act") adopted in 1993 and codified in Article 57 of the Environmental Conservation Law (ECL). The Act empowered the Commission to, among other things, oversee land use activities within the specially designated Central Pine Barrens Area. The Commission has jurisdiction over development in the Central Pine Barrens area as such term is defined in the Act. Development includes the "performance of any building activity, . . . , the making of any material change in the use or intensity of use of any . . . land and the creation . . . of rights of access." In 1995, the Commission adopted the Act mandated Comprehensive Land Use Plan (the "Plan"). In the Plan are Standards and Guidelines to govern development in the Central Pine Barrens.

The Act provides the Commission jurisdiction to review and approve proposed "developments found by the Commission after petition by a commissioner to have significant adverse impact on the land use plan." These types of development must conform with the Plan's Standards and Guidelines or receive an extraordinary hardship exemption to proceed.

III. Commission's Procedural Review of the Project

The Project has a long iterative history with the Town of Southampton involving various proposals to develop the Project Site. In 2009, the Commission reviewed DLV's proposal to develop the Project Site under a project then known as The Hills PDD. After completing its SEQRA review of The Hills, the Town did not approve it. Subsequently DLV modified The Hills project into the Lewis Road PRD, the Project, and submitted it to the Town. The Commission's SEQRA Record contains materials used to review The Hills PDD and the Lewis Road Project. These include the Draft Scoping Document, Draft EIS, Final EIS, and Findings Statements on both the Hills PDD and the Lewis Road PRD.

This summary table lists the milestones and actions of the Commission in the Project's SEQRA process.

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Date	Commission Actions except as noted*
February 11, 2009	Comments on the Draft Scoping Document for The Hills PDD Draft EIS
February 24, 2011	Comments on the Planning Board referral of The Hills subdivision application
September 6, 2013	Comments in response to the Hills Pre-Application submission
March 9, 2015	Response to SEQRA Lead Agency Coordination of The Hills at Southampton MUPDD and noting the Critical Resource Area in the Project Site
March 24, 2015	Town Board assumed Lead Agency*
March 30, 2015	Critical Resource Area jurisdiction letter
April 21, 2015	Town Board Draft Scope for the Draft Environmental Impact Statement*
May 11, 2015	Commission comments on the Draft Scope for the DEIS
October 21, 2015	Commission Assertion of Jurisdiction
November 16, 2016	Commission comments on the DEIS
September 14, 2017	Town Board accepts the FEIS*
September 20, 2017	Final EIS*
November 27, 2017	Town Board adopted Positive Findings Statement and PDD vote failed to achieve supermajority vote
January 25, 2018	Planning Board referral of Lewis Road Subdivision Pre-Application, same project except golf course membership limited to residents, no PDD public benefits.
March 1, 2018	Response to Lewis Road Pre-Application referral
November 15, 2018	Zoning Board of Appeals determination that a private golf course is an accessory use to the residential subdivision*
May 15, 2019	Commission re-affirmed the Assertion for any substantially similar project on the Project Site regardless of name
June 19, 2019	Commission resolution identifying standards and guidelines to be reviewed in the assertion application
October 16, 2019	Commission letter to Town Planning Board comments on Preliminary Subdivision
October 24, 2019	Planning Board Preliminary Subdivision approval*
December 28, 2019	Received Assertion of Jurisdiction Application
January 15, 2020	Commission scheduled public hearing for February 19, 2020
February 19, 2020	Commission Public Hearing and Staff Report
June 3, 2020	Applicant submission including responses to items in the draft staff report and revised plans (e.g., Master Plan, slope analysis, clearing plan)
June 17, 2020	Commission letter to the Applicant with questions
July 1, 2020	Applicant submission including responses to the draft staff report and revised plans (e.g., Master Plan, slope analysis, clearing plan). This submission added 20.06 acres of land to the project site as a result of the applicant's acquisition of an 11.96 acre parcel in the vicinity of Parlato and road abandonments
August 17, 18, 19 and 26, 2020	Applicant submissions including project overlays of the December 23, 2019 Master Plan and the revised plans dated June 2020
August 19, 2020	Commission Public Hearing and Staff Report
October 9, 2020	Applicant submission including revised plans

November 18, 2020	Applicant submission including a response to the draft staff report summary
November 18, 2020	Commission Public Hearing and Staff Report
December 2, 2020	Applicant submission including responses to comments from the November 18, 2020 public hearing
December 16, 2020	Commission scheduled special meeting for January 13, 2021 to deliberate the Project
January 13, 2021	Special Commission Meeting
January 20, 2021	Decision Deadline

IV. The Assertion of Jurisdiction, the Application, the Staff Report, the Public Process, and Supplemental Materials

Assertion of Jurisdiction

On October 21, 2015, the Commission asserted review jurisdiction on The Hills at Southampton Mixed Use Planned Development District. The Commission did not act under this assertion because The Hills PDD proposal failed to receive the requisite votes for a change of zone before the Commission acted. Once the Lewis Road PRD was proposed, the Commission re-affirmed its Assertion of Jurisdiction on May 15, 2019, this time for the Lewis Road PRD and any substantially similar project on the Project Site regardless of name.

The Application and Supplemental Materials

On December 28, 2019, DLV submitted its Assertion Application. It contained, among other things, a review of Standards and Guidelines, the Town of Southampton Findings Statement pursuant to SEQRA, the Town of Southampton Planning Board conditional preliminary plat approval, a list of 176 tax lots in the Project, supporting materials, viewshed analysis, and maps including a slope map, Master Plan, and property surveys (the Application). Under the Act, the Commission, has 120 days to act upon the Application.

On June 3, 2020, the Applicant submitted a response to the Staff Report and a revised Master Plan. The Revised Master Plan layout shifted development southward from the Core Preservation Area boundary to create a larger block of unfragmented open space at the northerly end of the development and to minimize disturbance to steep slopes.

On June 17, 2020, the Commission authorized a letter with additional questions for clarification by the Applicant including quantifying steep slopes and identifying steep slopes disturbed by the Project, defining the amount of unfragmented open space, and supplying an updated water quality model analysis and a revised Grading Plan to reflect the revised Master Plan.

On July 1, 2020 the Applicant submitted supplemental materials including responses to the Commission’s June 17, 2020 letter and responses to the February 19, 2020 public hearing comments.

The August 13, 2020 staff report summarized the July 1, 2020 supplemental material. Responses were received on August 19, 2020 prior to the hearing. On August 19, 2020 the hearing continued via the Zoom format where a Staff Report summary was presented identifying the Standards and Guidelines

where Commission input was needed to determine conformance. Twenty members of the public spoke, which excludes the Applicant, and 91 commenters submitted written comments.

Public Process

The Commission commenced review of the Assertion Application on January 15, 2020 with the scheduling of a February 19, 2020 public hearing. At the February 19 Public Hearing, a Commission Staff Report with 27 Exhibits (A through M) was introduced into the record. The Staff Report defined a Study Area that extends one mile from the site in all directions that identifies the land uses in this area.

At the February 19 hearing, the Commission received sworn testimony from the Applicant's representatives including its land use consultant, Chic Voorhis and its attorney, Wayne D. Bruyn. A stenographic transcript was made of the hearing. Thirty-two members of the public spoke at the hearing, excluding the Applicant, and 22 submitted written comments. Following the hearing, at various Commission meetings DLV requested and received extensions of the Commission's decision deadline until September 16, 2020.

A special meeting of the Commission was scheduled for September 11, 2020 to discuss and deliberate on the Project. The September 11 meeting was canceled after the Town of Southampton notified the Commission that they had met with the Applicant and discussed changes to the Project, and it was noted that revisions were underway. According to the Town, the Project was being revised to improve conformance to the Plan including the clearing standard, unfragmented open space standard, and guidelines related to steep slopes.

At the regular meeting of the Commission on September 16, 2020, the Commission granted the Applicant's request for extension to January 20, 2021. Additionally, the Applicant stated revised plans would be submitted on October 9, 2020 and they were.

At the regular meeting of the Commission on October 21, 2020 a public hearing was scheduled for November 18, 2020. At the November hearing, ten speakers were heard including DLV representatives. The Commission set a written comment period ending on December 15. Three hundred and eight (308) individuals submitted comments. Some submitted more than one comment. All written comments and the stenographic transcripts from each public hearing were posted on the Commission website at <https://pb.state.ny.us/>

V. Conformance Review Standard

Commission review of an Assertion Application requires a Project to demonstrate conformance with the Standards and Guidelines set forth in Volume 1, Chapter 5 of the Plan. If the Project does not conform with one or more provisions, and is not modified to comply, the Act authorizes the Commission, by majority vote, to waive strict compliance with the Plan upon finding that such waiver is necessary to alleviate a demonstrated hardship.

Standards and Guidelines that do not apply to the Project are noted in the review. No wetlands exist on site; the site is not within the jurisdiction of the Wild, Scenic and Recreational Rivers Act (S5.3.3.4.3); no agricultural activity is proposed; and no commercial and industrial uses are proposed.

This review identifies where conformance is deferred to other agencies, including the Suffolk County Department of Health Services or New York State Department of Environmental Conservation (NYSDEC), that regulate uses and activities to protect public health, water and natural resources (e.g., wastewater treatment, storage of chemicals and stormwater management). The Applicant must adhere to applicable regulations and permit requirements of other agencies.

VI. Commission Findings and Decision

The SEQRA Record is incorporated by reference. The Commission's Findings rely on the SEQRA Record to:

- (1) consider the relevant environmental impacts, facts and conclusions disclosed in the FEIS;
- (2) weigh and balance relevant environmental impacts with social, economic and other considerations;
- (3) provide a rationale for the agency's decision;
- (4) certify that the requirements of this Part have been met;
- (5) certify that consistent with social, economic and other essential considerations from among the reasonable alternatives analyzed, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision, those mitigation measures that were identified as practicable.

VII. Conformance Review of Project with Plan's Standards and Guidelines and Impact on Goals of the Plan

The following sections evaluate the potential impacts of the Project based on the SEQRA record and the complete information submitted by the Applicant and conformity with the Plan's Standards and Guidelines.

A. Water Resources

The Plan's Standards and Guidelines related to water resources are identified below. Also included is a discussion of the Project's potential impacts to water resources, mitigating measures and conformance to the applicable standards and guidelines.

1. Nitrate-nitrogen – Conformance with Standards and Guidelines

a. Standard 5.3.3.1.1 Suffolk County Sanitary Code Article 6 compliance

The Project's population density equivalent is one residential unit per 200,000 square feet, as per the Town CR 200 Zoning District. This requirement complies with the Suffolk County Department of Health Services (SCDHS) proscription on density of greater than one unit per 40,000 square feet in Groundwater Management Zone III. This conforms with the density requirements of the Suffolk County Sanitary Code.

The Project includes an intra-Project Site transfer of density to achieve its population density equivalent. As a result, no further density may be realized from the Project Site.

By letter dated May 8, 2020, SCDHS advised the Commission that the SCDHS has not completed its review of the Project. It is expected that the Applicant can satisfy the procedural requirements of the SCDHS. The conformance of the Project with this standard is conditioned on the Applicant obtaining SCDHS approval of Article 6 compliance.

b Standard 5.3.3.1.2 Sewage treatment plant discharge

The Project develops a sewage treatment plant in the CGA. The application states, “It is not practical to locate the Project outside of and downgradient of the Central Pine Barrens.”

The Applicant must satisfy the requirements of the SCDHS including but not limited to the comments in their letter titled “Notice of Incomplete Application – Sewage Treatment Plant (STP)” dated December 20, 2019 reference # C09-19-0017. The conformance of the Project with this standard is conditioned on the Applicant obtaining SCDHS approval of the sewage treatment plant.

c. Guideline 5.3.3.1.3 Nitrate-nitrogen goal

The Project conforms with this Guideline because it will generate 0.26 mg/l nitrogen, which is less than the 2.5 ppm concentration guideline. Additionally, the nearest wetland is 1,500 feet east of the site.

The Applicant will institute an Integrated Turf Health Management Plan and implement standards to limit nutrient loading to groundwater and surface water resources. DLV will also prepare a groundwater monitoring plan, to be approved by the Town. Its implementation will be overseen by the Town.

The Project will also institute an irrigation/fertigation plan to capture the “contaminant plume” as it is described in the Record and will utilize the nitrogen rich groundwater below the Project Site to irrigate the golf course. The Record explains under the irrigation/fertigation plan, water impacted by offsite activities will be reused. DLV anticipates that water reuse will reduce nitrogen making the Project “net nitrogen-negative.” Biofilters will collect and retain sediment and absorb nutrients from stormwater before reaching detention ponds or leaching pools. Raingardens will be constructed and a closed collection system will be used to capture water percolating through the golf course greens.

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The Project conforms with this Guideline. Notwithstanding its conformity with this Guideline, DLV stated that it will accept a Commission condition that the Project may not exceed a nitrogen recharge limit of 2.0 mg/l.

- d. *Standard 5.3.3.2.1 Suffolk County Sanitary Code Articles 7 and 12 compliance*

The SCDHS letter dated December 20, 2019 addressed the Article 12 permit. The Project is required to satisfy the requirements of the Suffolk County Sanitary Code as per this standard. The conformance of the Project with this standard is conditioned on the Applicant satisfying SCDHS compliance with the Sanitary Code.

2. Wellhead Protection - Conformance with Standards and Guidelines

- a. *Standard 5.3.3.3.1 Significant discharges and public supply well locations*

No significant discharges are proposed in groundwater contributing areas of existing public water supply well field locations. The Project conforms with Standard 5.3.3.3.1.

- b. *Guideline 5.3.3.3.2 Private well protection*

Two private irrigation wells are proposed at a total rate of 35 million gallons per year. The Project is required to satisfy NYSDEC permit requirements including addressing NYSDEC comments in a letter titled "Request for Additional Information" dated January 9, 2020 and obtain applicable approvals and permits. The conformance of the Project with this guideline is conditioned on the Applicant obtaining the required approvals from NYSDEC.

3. Wetlands, Surface Waters and Stormwater Runoff- Not Applicable

- a. *Standard 5.3.3.4.1 Nondisturbance buffers – Not Applicable (N/A)*
- b. *Standard 5.3.3.4.2 Buffer delineations, covenants, and conservation easements – Not applicable*
- c. *Standard 5.3.3.4.3 Wild, Scenic and Recreational Rivers Act compliance – Not applicable*
- d. *Guideline 5.3.3.4.4 Additional nondisturbance buffers – Not applicable*

4. Stormwater Runoff – Conformance with Standards and Guidelines

a. Standard 5.3.3.5.1 Stormwater recharge

Stormwater runoff will be retained and managed through recharge to groundwater and containment in detention and pond areas in the drainage system. Drainage Reserve Areas (DRAs) are illustrated in the Clearing Plan dated October 9, 2020. Approximately 40 DRAs and two ponds will be constructed to capture stormwater runoff.

To conform with this Standard the Project must comply with an approved Stormwater Pollution Prevention Plan (SWPPP). The conformance of the Project with this Standard is conditioned on the Applicant obtaining all necessary approvals from the Town for the SWPPP.

b. Guideline 5.3.3.5.2 Natural recharge and drainage

The grading and drainage plans must be approved by the Town Engineer and/or any entities with jurisdiction to review and approve the SWPPP and monitor the State Pollution Discharge Elimination System (SPDES) permit. The Applicant must satisfy the requirements outlined in the Town Engineer letter dated January 22, 2020. The conformance of the Project with this Guideline is conditioned on the Applicant obtaining approval of the grading and drainage plans from the Town.

c. Guideline 5.3.3.5.3 Ponds

The Project develops two lined ponds totaling approximately 3.17 acres, each 10 feet deep, for stormwater functions and aesthetic purposes. Runoff contribution in ponds will be supplemented by private irrigation wells. To do so requires Town approval of DLV's SWPPP. The conformance of the Project with this Guideline is conditioned on the Applicant obtaining approval of the SWPP from the Town.

d. Guideline 5.3.3.5.4 Natural topography in lieu of recharge basins

DLV states no natural drainage depressions exist for this purpose and therefore the proposal is to construct approximately 40 drainage reserve areas throughout the Project Site to handle recharge. This concept requires the Town approval of the Applicant's SWPPP. The conformance of the Project with this Standard is conditioned on the Applicant obtaining approval from the Town for its SWPPP.

e. Guideline 5.3.3.5.5 Soil erosion and stormwater runoff control during construction

The conformance of the Project with this Guideline is conditioned on the Applicant obtaining approval of its plans, pertaining to soil erosion and stormwater runoff in its SWPPP, from the Town.

6. SEQRA Findings - Water Resources

The Project protects and preserves the quality of surface and groundwater by adhering to the Plan's limit of 2.5 mg/l nitrate nitrogen concentration in groundwater over the entire 608-acre Project Site. Voluntary tertiary wastewater treatment will be provided by the Applicant to support groundwater protection efforts. The Project will institute an Integrated Turf Health Management Plan (ITHMP). The ITHMP was prepared to identify golf course management and operational procedures to minimize or avoid potential adverse environmental impacts from the golf course. The ITHMP addresses pesticide use, pest management and turf nutrient programs for the golf course and non-golf course areas. It describes proposed biofilters, synthetic liners below the greens, collecting and recycling stormwater runoff, irrigation control, professional management, and the Applicant's assertion that it will adhere to a less than 2.0 ppm nitrate in groundwater concentration, below the Plan standard and below the New York State and Federal limit of 10 ppm. Project must comply with SCDHS standards to protect water resources and obtain permits for the maintenance facility as well as through the ITHMP and groundwater monitoring protocols.

The Project will not have a significant adverse impact on nitrogen in recharge and nitrogen load, as it will comply with the Guideline for nitrogen in recharge and reduced nitrogen load. Through the fertigation method, utilizing the existing nitrogen rich plume in groundwater (due to legacy uses), the Project is expected to result in a net removal of nitrogen from the watershed that would otherwise have entered Shinnecock Bay. The

B. Land Use and Ecology

The Central Pine Barrens Development Standards and Guidelines concerning natural vegetation and plant habitat are set forth below along with a discussion on potential impacts to natural vegetation and plant habitat, mitigating measures and conformance to applicable standards and guidelines.

1. Natural Vegetation and Plant Habitat - Compliance with Standards

a. Standard 5.3.3.6.1 Vegetation Clearance Limits

An estimated 576.95 acres of natural vegetation and 31.5 acres of previously disturbed area exist on the Project Site. The maximum clearing limit is 171.93 acres (28.26% of the Project Site). The Project will clear 171.93 acres. In accordance with the Standard, the Project Site includes Core property, and for the purpose of calculating clearance limits, the site is the combined Core and CGA portion, however, the Core portion may not be cleared except as permitted in the Act and the Plan. Rather than

generating Pine Barrens Credits from the Core portion, DLV elected to utilize the Core property to generate density and clearing for the Project and proposed to develop the rights from the Core in the CGA portion of the Project Site, avoiding a Core hardship and retaining the Core in its present natural condition. The Project conforms with this Standard.

b. Standard 5.3.3.6.2 Unfragmented open space

The Project has evolved by shifting its development southerly in order to cluster a large block of open space in the northerly section. The Applicant engaged in a process to maintain unfragmented open space while still satisfying the needs of the Project and to achieve the Plan's other goals of maintaining existing natural vegetation to conform to Standard 5.3.3.6.1 and to avoid steep slopes where feasible.

The Project protects the Hills North (87 acres) and Parlato (120 acres) parcels totaling approximately 207 acres and clusters the physical development, 171.93 acres, in the Hills South and Kracke. Approximately 230 acres of open space is situated in the Hills South and Kracke. Most of the open space is located on the northern portion of the Project Site in a large unfragmented contiguous block.

Development has been shifted away from the Project Site's eastern boundary which it shares with Town open space lands and a network of trails.

This balancing produces a Project that establishes and preserves unfragmented open space to the maximum extent practicable while aiming to achieve conformance with other Standards and Guidelines including the Vegetation Clearance Limit and development on steep slopes. Where corridors and islands of vegetation remain after applying this Standard, the Project maintains the essential character of the existing pine barrens environment including indigenous plant and animal species and habitats in the CGA.

The Project conforms with Standard 5.3.3.6.2.

c. Standard 5.3.3.6.3 Fertilizer-dependent vegetation limit

No more than 15% or 91.27 acres of the site, within the maximum allowable cleared/development area of 171.93 acres, will be placed in fertilizer-dependent vegetation.

Furthering the Applicant's conformance with the Standard will be Applicant's Integrated Turf Health Management Plan which will contain protocols to monitor ground and surface water relative to maintenance of

the golf course and applications of chemical compounds on golf course turf, greens, fairways, tee boxes and any other areas requiring oversight. All of these will limit adverse impacts to ground and surface water resources. For these reasons the Project conforms with this Standard.

d. Standard 5.3.3.6.4 Native Plantings

The Project will involve the extensive installation of plants for landscaping. A final landscape plan will be submitted to and reviewed by the Town. The plan must include landscaping specifications, including but not limited to, species of plants, quantities of each type, spacing, source(s) of material and survival and replacement requirements.

The Town will confirm that native plantings will be used in the Project and that the Project avoids or minimizes the use of non-native plant species. In addition, the Applicant has offered to transplant existing native pine barrens plant, soils and seed material in areas slated for clearing and reuse them when and where feasible. This demonstrates that DLV considered native plantings in designing the Project and therefore it conforms with this Standard.

2. Species and Communities of Special Concern

Standard 5.3.3.7.1 Special species and ecological communities

The Project is required to adhere to NYSDEC clearing windows to protect the Northern Long-eared Bat (NLEB) a State and Federally listed Threatened species and its habitat. In addition, the Applicant has offered, where feasible, to protect species of special concern and rare plants on the site. Plans may be required by the Town to protect the species Eastern hognose snake, coastal barrens buckmoth and grasshopper sparrow, and their respective habitats. The Plan permits the Town to be more restrictive and require wildlife protection plans and measures that will further support protection of habitat and resident, migratory and other species that utilize the Project Site's natural resources.

The Project will not disturb the 62-acre Critical Resource Area known as Henry's Hollow which the Plan identifies as potential habitat for the coastal barrens buckmoth.

The conformance of the Project with this Standard is conditioned on the Project's adherence to regulatory protection requirements of NYSDEC and the Town.

3. SEQRA Findings - Land Use and Ecology

Of the 608.45-acre Project Site, DLV preserves 437 acres of open space. An estimated 207 acres are offered for dedication and 230 acres will be owned and

managed in a private HOA. The Master Plan was revised to avoid to the maximum extent the northerly portion of the Hills South where the steepest slopes exist on the Project Site. Clustering the Project southward on the Hills South and Kracke and as far west as possible, adjacent to existing farmland, the sand mine and residential communities to the south in the vicinity of Spinney Road, aims to protect natural buffers connected to the easterly adjacent open space.

The Project conforms with the Plan's vegetation clearance limit, 171.93 acres. Although the Project results in a direct and irreversible loss of 140 acres of habitat, due to the Town's low density zoning district and clearing limits, approximately 72% of the site or 437 acres will be protected in its natural state in perpetuity.

The Project establishes and maintains its open spaces as unfragmented open spaces to the maximum extent practicable.

No Pine Barrens Credits or development rights can be derived from the Core portion of the Project Site.

The Project will protect the habitat of the coastal barrens buckmoth in the Critical Resource Area and the Applicant must comply with regulations designed to protect the NLEB and its habitat.

These measures will minimize the impacts the Project has on the land use and ecological resources of the Project Site.

The Commission finds that the Project will conform with these Standards. The Project's compliance ensures that adverse environmental impacts are minimized and balanced with other considerations as defined in SEQRA and impacts on the goals of the Plan are minimized to the maximum extent practicable.

C. Slopes and Soils

The grade of the Project Site changes from the north to the south making disturbance of slopes inevitable. DLV has maximized the use of the flatter portions of the Project Site by using the flatter, southern portions of site more extensively than the northern portions.

1. Slopes - Compliance with Guidelines

a. Guideline 5.3.3.8.1 Clearing envelopes

An estimated 6.72 acres of development, or less than 1.1% of the development area, will occur on slopes greater than ten percent grade thereby maximizing development on areas of the Project Site with slopes of less than ten percent. This is less than half the amount of steep slopes originally slated for development in an earlier iteration of the Master Plan

that estimated development would occur on 17.31 acres of land with slopes greater than 10% grade. In its final plan, DLV will only clear 1.1% of the 608-acre site containing steep slopes. This maximizes placing clearing envelopes on areas with slopes of less than ten percent and it therefore conforms with this Guideline.

b. Guideline 5.3.3.8.2 Stabilization and erosion control

The Project must demonstrate to the satisfaction of the technical reviewers of the SWPPP that sufficient care has been taken in the design of stabilization measures, erosion control practices and structures to mitigate negative environmental impacts

The conformance of the Project with this Guideline is conditioned on the Applicant obtaining Town approval for its SWPPP.

c. Guideline 5.3.3.8.3 Slope analyses

A slope analysis was submitted with the required data. The Project conforms with this Guideline.

2. Soil - Compliance with Guidelines

a. Guideline 5.3.3.8.4 Erosion and sediment control plans

DLV must prepare an erosion and sediment control plan depicting the disturbance on slopes in areas of 15% grade or greater. The Applicant will disturb 2.29 acres of area containing slopes greater than 15%. This can be part of the Applicant's SWPPP. Conformance with this Guideline is conditioned on the Applicant obtaining Town approval for its SWPPP.

b. Guideline 5.3.3.8.5 Placement of roadways

The Project was revised to minimize development on roads and driveways traversing areas of the Project Site containing slopes in excess of fifteen percent and as a result no such areas will be traversed. The Guideline provides that roads should be designed to minimize traversing areas containing slopes of greater than ten percent. The Applicant will develop 0.40 acres of area with slopes of greater than ten percent as roads. Given the natural configuration of the Project Site this minimizes the traversing of areas with slopes of greater than ten percent and therefore conforms with the Guideline.

c. *Guideline 5.3.3.8.6 Retaining walls and control structures*

The Project was revised to avoid the use of retaining walls and create 1:3 slopes or less where necessary. No retaining walls will be developed, according to the current Master Plan; therefore, Guideline 5.3.3.8.6 is not applicable. The Project conforms with this Guideline.

3. SEQRA Findings – Slopes and Soil

The grade of the Project Site changes from the north to the south making disturbance of slopes inevitable. DLV has maximized the use of the flatter portions of the Project Site by using the flatter southern portions of site more extensively than the northern portions. A secondary benefit of this design is that it allows DLV to minimize placing clearing envelopes on areas of the Project Site with slopes in excess of ten percent and allows DLV to minimize the amount of roadways traversing of slopes of greater than ten percent.

DLV was able to design the Project to utilize existing contours and minimize grading and changes to topographic features to the extent that no mining permits and soil exports are necessary for the Project. This effort retains existing topography to the maximum extent practicable and soil resources of the Pine Barrens. Through the review and approval of the SWPPP, the Project will minimize erosion and control stormwater runoff on the Project Site.

The Commission finds that the Project will conform with these Guidelines. The Project's compliance ensures that adverse environmental impacts are minimized and balanced with other considerations as defined in SEQRA and impacts on the goals of the Plan are minimized to the maximum extent practicable.

D. Coordinated Design for Open Space Management

1. Open Space Dedications Compliance with Guideline

Standard 5.3.3.9.1 Receiving entity for open space dedications

Approximately 207 acres are offered for dedication to the Town. Approximately 230 acres of open space will be privately held and managed by a HOA. The Project conforms with this Standard.

2. Clustering Compliance with Guideline

Guideline 5.3.3.9.2 Clustering

This Guideline encourages the Town to use clustering techniques where it would enhance adjacent open space or provide contiguous open space connections. At the Town's request, DLV revised the Project to shift southward some of the

development that was originally proposed in the northerly section of the Hills South to minimize development on steep slopes and create a greater block of open space in the northerly section and shift development westerly to complement the Town open space holdings on the east.

The Master Plan aims to cluster to maximize open space and cluster physically developed areas. An estimated 207 acres in the Hills North and Kracke will be offered for dedication. An additional 230 acres of open space will be managed by an HOA and is partially clustered in the northerly section of the Hills South and partially situated in buffers and corridors of vegetation within and around the immediate boundaries of the physically developed residential and golf course uses and facilities in the Hills South and Kracke.

The roughly 42-acre Core portion in the Hills South is clustered outside of the developed area and will be protected as open space and managed by the HOA. The Project is clustered outside of the Core Preservation Area so that the physical development in the Project occurs in CGA portions of the site.

The Project conforms with this Guideline.

3. Protection of Open Space Compliance with Guideline

Guideline 5.3.3.9.3 Protection of dedicated open space

The open space offered for dedication to the Town will be protected in legal instruments satisfactory to the Town. The Project conforms with this Guideline.

4. SEQRA Findings – Coordinated Design for Open Space Management

The Commission finds that the Project will conform with these Guidelines. The Project’s compliance ensures that adverse environmental impacts are minimized and balanced with other considerations as defined in SEQRA and impacts on the goals of the Plan are minimized to the maximum extent practicable.

E. Agriculture and Horticulture – Not Applicable

Guideline 5.3.3.10.1 Best management practices – Not Applicable

F. Cultural Scenic, Historic and Recreational Resources

1. Cultural Resources - Compliance with Guidelines

a. Guideline 5.3.3.11.1 Cultural resource consideration

The State Historic Preservation Office letter dated January 15, 2021 concluded, “We have reviewed the revised Master Plan dated October

2020. OPRHP continues to recommend that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project.” The Project conforms with this Guideline.

b. Guideline 5.3.3.11.2 Inclusion of cultural resources in applications

The Town will coordinate with the Applicant to augment the natural buffers when the Project is under review by the Planning Board. The Project conforms with this Guideline.

2. Scenic and Recreational Resources – Compliance with Guidelines

a. Guideline 5.3.3.11.3 Protection of scenic and recreational resources

Portions of the Project will be visible to adjacent residents and recreational activities on adjoining public land; however, natural buffers will be provided where feasible to reduce visual impacts. The Project will conform to the Town’s dark skies code provisions to minimize lighting and reduce visual and ecological impacts of nighttime lighting. The Project conforms with this Guideline.

b. Guideline 5.3.3.11.4 Roadside design and management

Portions of the Project will be visible from some areas but natural buffers will be provided where feasible to reduce views. The Project conforms with this Guideline.

3. SEQRA Findings – Cultural Scenic, Historic and Recreational Resources

As part of the DEIS, the Applicant submitted in Appendix N of the DEIS a Phase I Archaeological Investigation, prepared by Tracker Archeology, dated September 2015. The Investigation included research and field methods including shovel testing. The Phase IB archaeological field survey excavated 2,456 shovel test pits. The study’s three main conclusions included: the property is seen as having an above average potential for the recovery of prehistoric archaeological sites; the property is seen as having a moderate potential for the recovering of historic archaeological sites; and no historic feature or historic artifacts were encountered. No prehistoric features or prehistoric artifacts were encountered. Therefore, no further archaeological work is recommended. The State Historic Preservation Office, by letter dated January 15, 2021, reviewed the Master Plan and continued to find, as their prior letter of January 2020 stated, “We have reviewed the revised Master Plan dated October 2020. OPRHP continues to recommend that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted

by this project.” Therefore, no significant adverse environmental impacts on cultural resources are expected because of the Project.

The SEQRA Record contains visual assessments and renderings of structures that illustrate that although the Project Site may be visible from views around the Project Site, the views are not expected to be significant and the built structures will be in keeping with the character, colors, styles and materials present in the community and region. These measures will minimize potential visual impacts to scenic and recreational resources and overall character of the existing pine barrens environment.

Passive recreational opportunities will be provided by the construction of a trailhead in an existing cleared area adjacent to Lewis Road and the railroad tracks for access to adjacent public lands and trails. The layout and design of the Project aims to be consistent with the long-term integrity of the pine barrens ecosystem and to ensure that the pattern of development is compact, efficient and orderly. Open space is clustered to the maximum extent outside of the development and the placement of the uses to be physically developed are clustered on a maximum of 171.93 acres of the 608.45 acre Project Site, thereby protecting open space on the remaining 437 acres and discouraging piecemeal and scattered development. Overall, the Master Plan preserves and maintains the essential character of the existing pine barrens environment through the use of signage, buffers and adherence to Town Code standards that support preserving the character of the region. The Project encourages appropriate patterns of compatible residential development in order to accommodate regional growth influences in an orderly way while protecting the pine barrens. In addition, the Project avoids development in the Core and redirects density from the Core to be developed in the CGA. In addition, the Project avoids development of 62 acres of the Project Site that is in a Critical Resource Area, defined as Henry’s Hollow in Chapter 4 of the Plan. Avoidance of development in this area allows the habitat of a State-listed species of special concern, coastal barrens buckmoth, to continue to exist and be protected in the open space dedication offer to the Town.

The Commission finds that the Project will conform with these Guidelines. The Project’s compliance ensures adverse environmental impacts are minimized and balanced with other considerations as defined in SEQRA and impacts on the goals of the Plan are minimized to the maximum extent practicable.

G. Commercial and Industrial Development – Not Applicable

Standard 5.3.3.12.1 Commercial and industrial compliance with Suffolk County Sanitary Code – Not applicable

VIII. Conformance Conditions

This Commission approval is for the Lewis Road Planned Residential Development as depicted in the Master Plan dated November 17, 2020, stamped received by the Commission office on November 18, 2020, and in accordance with the SEQRA Record, subject to the following conditions:

Other agency approvals and permit requirements

The Project requires satisfaction of the requirements of other agencies including the Town of Southampton, Suffolk County Department of Health Services and the New York State Department of Environmental Conservation. The Applicant must seek and obtain other agency review and permit approvals, including but not limited to:

1. Suffolk County Department of Health Services approval for Article 6
2. Suffolk County Department of Health Services approval for the Sewage Treatment Plant
3. Suffolk County Department of Health Services for Articles 7 and 12
4. Southampton Town Engineer approval of the Stormwater Pollution Prevention Plan (SWPPP)
5. New York State Department of Environmental Conservation approval of the SWPPP
6. New York State Department of Environmental Conservation approval for two private irrigation wells with a pump rate total of 35 million gallons per year

Open Space protection and natural resources

1. No more than 171.93 acres may be cleared and developed.
2. A minimum of 207 acres must be offered for dedication to the Town or other local, county, state or federal agency.
3. A minimum 230 acres must be protected by the Homeowners Association or equivalent, or a public agency.
4. Covenants or conservation easements are required to protect in perpetuity 437 acres of natural open space. These legal instruments must be recorded prior to disturbance, clearing and development on the Project Site. Legal instruments for dedication and protection of open space must be prepared to the satisfaction of the Town of Southampton and the Commission and any other agencies having such jurisdiction. The aforementioned legal instruments must be recorded in the Office of the Suffolk County Clerk and Town of Southampton and copies of these recorded legal instruments must be forwarded and submitted to the Commission office.
5. Snow fencing must be installed along the boundaries of the limits of vegetation clearing and require inspection by the Commission prior to the occurrence of any clearing activity. The aforementioned snow fencing must be retained in place in each Project phase until each phase is complete.
6. Prior to disturbance submit a copy of the approval of the Stormwater Pollution Prevention Plan (SWPPP) by the Town and NYSDEC
7. New York State and Federally-listed protected species and their habitat(s), including the Northern Long-eared Bat (NLEB), must be protected. The Applicant must adhere to NYSDEC regulations to protect the NLEB and its habitat.
8. Listed plant and wildlife species and habitats must be protected as required by local, State and Federal agencies.

Construction phasing and completion of the Project

9. Because the proposal is a six-year phased project, the Applicant shall submit a copy of the construction phasing plan for the Project Site showing areas to be cleared and developed in succession. On the aforementioned plan the Applicant must identify areas of the site that will be constructed at different times, including clearing, while meeting the habitat requirements of regulated species and habitats.

Groundwater Monitoring Protocols

10. The Project shall not exceed a maximum concentration limit of 2 mg/l groundwater, as calculated over the entire Project Site. A covenant must be placed on the property to institute this requirement and the covenant must be approved by the Commission prior to commencing site disturbance and development activities.
11. The Applicant must submit a copy of the final groundwater monitoring protocols. The protocols must include measures to cease operations if and when measurements exceed maximum limits unless and until conditions return to compliance levels.

General

12. There shall be no changes of use, other uses or other changes to the Project Master Plan or on the Project Site, no increases in density, intensity, sewage flow (including expansions of the sewage treatment plant to increase capacity), accessory uses or additional structures other than the facilities in the current Master Plan, increases in footprint, increases in gross square footage, and modifications that would change the site plan or subdivision map, master plan and/or conformance with Standards and Guidelines without the Commission's approval.
13. Submit a copy of the final filed subdivision map, filed with the Suffolk County Clerk, and plans and resolutions approved by the Town of Southampton Planning Board.
14. Prepare for Commission review and approval and then record a covenant that no additional population density yield may be generated from the site.
15. If at any time during construction or disturbance, including clearing, archaeological or cultural resources or remains are uncovered, the Applicant must cease operations and report this to the Town and develop a plan for modifications to protect artifacts and resources.
16. The Commission's approval is valid for 10 years from the Commission's date of approval. The Project must be 90% complete by the time the end of this 10-year term occurs. If it is not, the Applicant must request an extension from the Commission, and the extension is subject to Commission review and approval of conditions at that time and regulations in effect at that time.
17. The proposal must conform to all other involved agency jurisdictions and permit requirements in effect on the Project Site.

IX. Conformance Determination and Findings

The Commission finds that the Project conforms with the Central Pine Barrens Standards and Guidelines for development and therefore no hardship waiver is necessary. Based on the SEQRA Record and review of the Master Plan, no significant adverse impacts were identified as a result of the Project on water resources including surface waters and groundwater, natural vegetation and plant habitat, species and communities of special concern, soils, cultural, scenic and recreational resources. The Project does not require CGA or Core Hardship Waivers from the Commission, pursuant to the provisions outlined in New York State Environmental Conservation Law § 57-0121(9) and § 57-0121(10).

The Commission certifies that in issuing this Findings Statement it has:

- 1) considered the relevant environmental impacts, facts and conclusions disclosed in the final EIS as they pertain and are within the purview of the Commission’s review of the Assertion application for this Project.
- 2) weighed and balanced the relevant environmental impacts with social, economic and other considerations.
- 3) provided a rationale for its decision by the written facts and conclusions contained herein based on the Project’s SEQRA Record and Assertion application.
- 4) certifies that the requirements of this Part have been met.
- 5) certifies that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures that were identified as practicable.

The Commission finds the adverse environmental impacts resulting from the Project are weighed and balanced by the Project design and its conformity with the Standards and Guidelines for land use development outlined in the Central Pine Barrens Comprehensive Land Use Plan, and therefore approves the Master Plan design for the Lewis Road Planned Residential Development Subdivision, subject to the conditions of approval contained herein.

The Commission, pursuant to 6 NYCRR Part 617.11, has prepared the Findings stated herein and shall cause it to be filed in accordance with 6 NYCRR Part 617.12(b).

COPIES OF THIS FINDINGS STATEMENT WILL BE SENT TO:

Environmental Notices Bulletin (ENB)
NYSDEC, Division of Environmental Permits, Albany
NYSDEC, Division of Environmental Permits, Region 1
New York State Department of Transportation
Suffolk County Planning Commission
Suffolk County Department of Health Services
Suffolk County Water Authority
Suffolk County Department of Public Works

DRAFT

Suffolk County Sewer Agency
Jay Schneiderman, Supervisor, Town of Southampton
Southampton Town Clerk
Janice Scherer, Director of Land Management
Chair, Southampton Town Planning Board
Mark Hissey, Discovery Land Ventures., Owner/Applicant
Charles J. Voorhis, Agent
Wayne D. Bruyn, Attorney

This statement is not complete until authorized as follows.

MOTION TO ACCEPT THE FINDINGS STATEMENT FOR THE LEWIS ROAD PLANNED RESIDENTIAL DEVELOPMENT ASSERTION OF JURISDICTION PROJECT

MOTION BY:
SECONDED:
VOTE:
YES:
NO:

MOTION TO APPROVE THE LEWIS ROAD PLANNED RESIDENTIAL DEVELOPMENT ASSERTION OF JURISDICTION PROJECT

MOTION BY:
SECONDED:
VOTE:
YES:
NO:

DATE: January 20, 2021

DRAFT

Exhibit A

Lewis Road PRD Parcels list in the July 1, 2020 submission:

Hills North Parcel: 900-203-1- Lots 25, 27, 30

Hills South Parcel:

900-219-1- Lots 4, 5, 6, 7, 8, 9, 10, 11.1, 12, 13, 14, 15, 16, 17, 18, 19, 20.1, 21, 22, 23, 24, 47, 48, 49, 50

900-250-3- Lots 1, 2, 3, 4, 5, 6, 9, 11, 13, 14, 17, 30

900-288-1- Lots 61, 121, 122, 123, 125, 127, 130, 132, 133, 136, 138, 140.2, 141.1
900-314-2-20.5

Kracke Property: 900-250-2-4; 900-288-1-59.1, 60

Parlato Property:

900-220-1- Lots 7, 8, 9, 10, 11, 12, 14.1, 15, 16, 17, 18, 19, 31, 33, 34, 35, 36, 39, 40, 42, 56, 58, 59, 60, 65, 66, 67, 70, 72, 73, 74, 75, 76, 78, 79, 80, 81, 82, 84, 86, 102, 103, 109, 110

900-251-1- Lots 4, 5, 7, 8, 10, 12, 13, 14, 15, 16, 18, 20, 21, 22, 23, 24, 25, 26, , 28, 29, 30, 32, 33, 34, 35, 36.1, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50.1, 50.2, 51, 52, 53, 54, 57, 58, 59, 61, 62, 63, 65, 67, 68, 69, 90, 96, 98

900-289-2- Lots 1, 3, 5, 19, 20, 22, 23, 24, 25, 26, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38