



Lewis Road PRD
Response to Central Pine Barrens Commission Draft Staff Report
Dated August 19, 2020

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Submission to: Central Pine Barrens Joint Planning & Policy Commission
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This document provides a point-by-point response to the Central Pine Barrens Joint Planning & Policy Commission (“the Commission”) staff comments as contained in the above referenced Draft Staff Report. The Commission staff comments are in italics, with appropriate responses in non-italics text. Overall, the Draft Staff Report supports a finding that the proposed project is consistent with the Standards and Guidelines of the Central Pine Barrens Comprehensive Land Use Plan (“CLUP”). The Draft Staff Report points out various other agency approvals, and/or minor pieces of information needed to fully demonstrate conformance, most of which is available or will be provided through other agency approvals. Notably, there are no comments in the Draft Staff Report that refute or oppose the findings of the Applicant with respect to demonstrated conformance with the Standards and Guidelines, as contained in the SEQRA record and various submissions to the Commission. A project which complies with the Standards and Guidelines warrants approval by the Commission.

REVIEW OF STANDARDS AND GUIDELINES

This section analyzes the submission Record to determine whether the Project conforms to the Plan’s Standards and Guidelines.

Standard 5.3.3.1.1 Suffolk County Sanitary Code Article 6 compliance

- ***Project will conform when the Suffolk County Department of Health Services (SCDHS) has issued its approval.***

The Applicant has submitted all necessary applications to SCDHS and will obtain all such approvals, and therefore complies with this Standard.



Standard 5.3.3.1.2 Sewage treatment plant discharge

- **Absent the County or State input, in accordance with this Standard, the Project will conform.**
Conformance acknowledged.

Guideline 5.3.3.1.3 Nitrate-nitrogen goal

- **Please explain why in the SONIR analysis the inputs in the population and number of units are both zero (0) where the inputs were not zero in other development projects.**

The SONIR model has the option to determine nitrogen load based on wastewater flow and concentration, or population and number of units. Because the proposed project will process sanitary wastewater to tertiary standards through Sewage Treatment Plant (STP) the appropriate determination of nitrogen load is based on wastewater flow and concentration. As a result, the population and number of units was correctly entered as zero (0).

- **The Commission must determine if the Project conforms to this Guideline.**

The concentration of nitrogen in recharge is projected to be 0.24 mg/l and the Guideline requires a maximum of 2.5 mg/l in proximity to wetlands and surface waters. The proposed project is not near surface water or wetlands; however, if this Guideline applies, the project is clearly substantially less than the limit of nitrogen in recharge. There is nothing further for the Commission to determine as the project is clearly consistent with this Guideline if it applies. Project analysis has further found that the project will have a “net negative” nitrogen contribution as a result of fertigation use of enriched nitrogen in groundwater due to upgradient farms, that would otherwise migrate to Weesuck Creek and Western Shinnecock Bay.

Standard 5.3.3.2.1 Suffolk County Sanitary Code Articles 7 and 12 compliance

- **The SCDHS letter dated December 20, 2019 raised questions and needed clarification on the request for an Article 12 permit. Please clarify to satisfy SCDHS requests.**

An Article 12 permit is required for the maintenance area of the proposed project. An Article 12 will be obtained based on final site plan design after Final Subdivision approval.

- **The Project will conform if the SCDHS review is satisfied and SCDHS issues its approval.**

SCDHS will issue approvals for this project, therefore, the project will conform with this Standard as noted in the Draft Staff Report.

Standard 5.3.3.3.1 Significant discharges and public supply well locations

- **Project will conform.**
Conformance acknowledged.

Guideline 5.3.3.3.2 Private well protection

- **Project will conform.**
Conformance acknowledged.

Standards 5.3.3.4.1 through 5.3.3.4.4 Wetlands and Surface Waters

- **Not applicable; no freshwater wetland habitat was identified on site.**
Acknowledged.

Standard 5.3.3.5.1 Stormwater Recharge

- **Project will conform.**
Conformance acknowledged.

Guideline 5.3.3.5.2 Natural recharge and drainage

- **The Commission must determine whether the drainage plan conforms to this Guideline.**
The Guideline indicates that “minimal disturbance of native vegetation should be employed, where practical, in lieu of recharge basins or ponds that would require removal of significant areas of native vegetation.” [emphasis added.] Significant supporting information has been provided to demonstrate that the project involves “minimal disturbance” of natural vegetation and that is not practical to provide stormwater containment other than what is proposed. The proposed project disperses stormwater throughout the site in Drainage Reserve Areas. No evidence of non-conformance is provided in the Draft Staff Report. The Commission may rely on the Applicant’s submission which finds that the proposed project conforms with this Guideline.

Guideline 5.3.3.5.3 Ponds

- **The Commission must determine whether the development of ponds conforms to this Guideline.**
The Guideline indicates that “Ponds should only be created if they are to accommodate stormwater runoff, not solely for aesthetic purposes.” It is clear on drainage plans for the project that ponds are not solely for aesthetic purposes, and are intended to accommodate stormwater runoff. As a result, the proposed project is clearly consistent with this Guideline and there is no other conclusion to be reached.

Guideline 5.3.3.5.4 Natural topography in lieu of recharge basins

- **Compliance to be demonstrated upon approval of a Stormwater Pollution Prevention Plan by the NYSDEC. Absent such approval, the Project does not conform.**
The approval of a Stormwater Pollution Prevention Plan, or SWPPP, is a function of the Town of Southampton. The Applicant submitted a SWPPP to the Town at the time of Preliminary Subdivision approval, and addressed comments of the Town Engineer at that time. The Planning Board issued Preliminary Subdivision approval. A Final Subdivision approval will be obtained once the Commission approves this action, and the Applicant will obtain SWPPP approval from the Town as required in Condition 2 of the Preliminary Subdivision approval, as part of the Final Subdivision approval. As a result, the project will clearly obtain SWPPP approval and therefore complies with this Guideline.

Guideline 5.3.3.5.5 Soil erosion and stormwater runoff control during construction

- **Compliance to be demonstrated upon approval of the SWPPP. Absent such approval, the Project does not conform.**
As noted for Guideline 5.3.3.5.4, the Town subdivision approval requires an approved SWPPP, therefore, the project will conform.

Standard 5.3.3.6.1 Vegetation Clearance Limits

- **The Project will conform to the Standard if the clearing does not exceed 171.93 acres including the 31.5 acres currently cleared. Therefore, a maximum of 140.43 acres of existing natural vegetation can be cleared for the Project.**

The project will not exceed the maximum allowed clearing of 171.93 acres; as indicated on the Clearing Plan, the project will clear 161.90 acres. This includes construction for the project utilizing 21.47 acres of land that was previously cleared, and an additional 140.43 acres of clearing that is currently naturally-vegetated, for a total clearing of 161.90 acres. An additional 10.03 acres of previously cleared land will remain on the site, outside of the Development Envelope. A recent visit to the site finds that efforts of the Applicant are resulting in the natural revegetation of these 10.03 acres. The Applicant is actively cutting off dirt bike and ATV access to the subject site, as well as the Town land east of the subject site. Through guidance from the Town of Southampton, former dirt bike trails have been fenced and trails have been obstructed with natural forest materials which is resulting in the restoration of these trails and barren areas on the site. The Applicant is removing debris from the site and ensuring the healing of environmental damage caused by illegal trespassing on the site.

Standard 5.3.3.6.2 Unfragmented open space

- ***The Commission must determine whether the Project conforms to this Standard.***

This Standard states that projects should preserve natural vegetation in large blocks for contiguous open space with adjacent parcels and prioritize native pine barrens preservation to the maximum extent practicable. The Applicant has taken extraordinary measures to design the project to conform with this Standard. This includes the purchase of the 120 acre Parlato property east of the main development area, the 87 acre Hills North parcel, the Core Preservation Area south of Sunrise Highway, and open space within the Compatible Growth Area extending a minimum of 2,500 feet south of Sunrise Highway, as well as extensive open space on the perimeter of the development areas of the site. The Town of Southampton has assisted in this design to ensure that the property preserves open space in large unbroken blocks that align with off-site open space to ensure conformance with this Standard. As noted in the Draft Staff Report, the project has 436.52 acres of naturally vegetated open space. The record provides extensive documentation to demonstrate compliance with this Standard. No contrary information is provided in the Draft Staff Report. As a result, the only conclusion that can be reached, is that the proposed project conforms with this Standard.

Standard 5.3.3.6.3 Fertilizer-dependent vegetation limit

- ***The Project will conform.***

Conformance acknowledged.

Standard 5.3.3.6.4 Native Plantings

- ***The Project will conform.***

Conformance acknowledged.

Standard 5.3.3.7.1 Special species and ecological communities

- ***Project will conform if clearing adheres to the windows for bat habitat protection. No clearing may occur between March 1 to November 30 to protect habitat of Northern Long Eared Bat in accordance with current NYSDEC guidance.***

As noted in the Draft Staff Report, the project will conform with this Standard if the project conforms with the NYSDEC guidance for Northern Long Eared Bat. The Applicant will fully conform with the applicable NYSDEC requirements.

Guideline 5.3.3.8.1 Clearing envelopes

- ***The Commission must determine whether the Project conforms to this Guideline.***

This Guideline states that the project should maximize placement of clearing envelopes in areas with less than 10% slopes. The Application record clearly demonstrates that the design achieves this Guideline. The Draft Staff Report confirms this with the statement on Page 9: "Therefore, as a percentage of the overall development area, the Applicant has maximized the placement of clearing on slopes less than 10% grade in conformance with this Guideline." As a result, the Commission has a basis to find consistency with this Standard.

Guideline 5.3.3.8.2 Stabilization and erosion control

- ***The Project will conform if technical review is approved by the Town.***

The Town is responsible to ensure site stabilization and erosion control and as noted, the project will conform with this Guideline through Town Final Subdivision review.

Guideline 5.3.3.8.3 Slope analyses

- ***The Project conforms to this Guideline.***

Conformance with this Guideline is acknowledged per the Draft Staff Report.

Guideline 5.3.3.8.4 Erosion and sediment control plans

- ***The Project does not conform to the Guideline because an erosion and sediment control has not been submitted to the Commission.***

This Guideline reads: "Erosion and sediment control plans should be required in areas of 15% or greater slopes." The Guideline does not indicate when this should occur. It is the Town that requires and reviews erosion control and has in fact required this through Condition 3 of the Preliminary Subdivision approval which states: "The project shall conform to the State Pollutant Discharge Elimination System (SPDES) GP-08-01 general permit requirements requiring filing of a Notice of Intent (NOI), Erosion and Sedimentation Control Plan and a Stormwater Pollution Prevention Plan (SWPPP), consistent with the Town of Southampton and the New York State Department of Environmental Conservation (NYSDEC). This final plan shall be submitted in conformance with Town and State filing requirements with the final plat submission." As a result, this project will clearly comply with this Guideline.

Guideline 5.3.3.8.5 Placement of roadways

- ***The Commission must determine whether the Project conforms to this Guideline.***

This Guideline states that roads and driveways should be designed to minimize the traversing of slopes greater than 10% and minimize cut and fills. Objective review of the plan can only lead to the conclusion that the project has been designed in conformance with this Guideline. The project plans clearly demonstrate that almost none of the roads or driveways will be within areas of 10% slopes given the relocation of the development south of the steeper slope areas. The Commission has a sound basis to determine compliance with this Guideline.

Guideline 5.3.3.8.6 Retaining walls and control structures

- ***The Project conforms if the details of retaining walls are submitted in accordance with this Guideline.***

Since the re-design of the project to remove development from steeper slope areas, no retaining walls are shown on the grading plan included with the July 1 submission. If retaining walls are to be used, details will be provided as part of Town site plan review. As noted in the Draft Staff Report, the project conforms with this Guideline.

Standard 5.3.3.9.1 Receiving entity for open space dedications

- ***The Project conforms to this Standard.***
Conformance acknowledged.

Guideline 5.3.3.9.2 Clustering

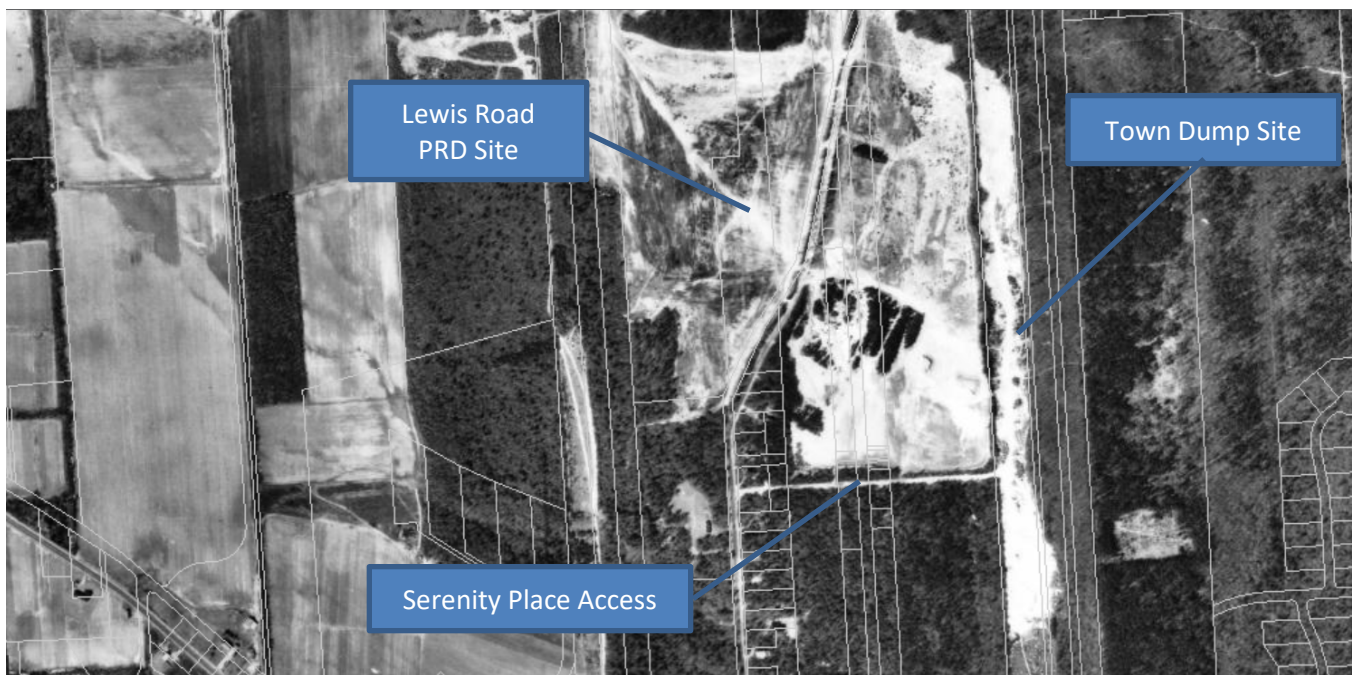
- ***The Project conforms to this Guideline.***
Conformance acknowledged.

Guideline 5.3.3.9.3 Protection of dedicated open space

- ***The Project will conform if adequate restrictions are in place in the HOA.***
In addition to the dedication of open space to the Town, all other natural areas of the site will be protected through Town review during the Final Subdivision approval, and the HOA to be filed with the New York Attorney General will contain adequate restrictions for protection of open space.
- ***Reserve rights to dedicate four acres on Parlato to SCWA to develop a future public water supply well field.***
The Applicant commits to the dedication of four acres on the Parlato Property to SCWA for future water supply.
- ***Work pertaining to water supply for the residents of Suffolk County constitutes “nondevelopment” pursuant to definitions in Section 57-0107(13)(ii) of the Act. Therefore, no Commission review of the well field is required.***
This comment is acknowledged.

Guideline 5.3.3.11.1 Cultural resource consideration

- ***The Commission must determine whether the Project conforms to this Guideline.***
This Guideline refers to “Established recreational and educational trails and trail corridors.” The Draft Staff Report makes note of existing hiking trails on the public land to the east. The context of the Town land east of the site should be understood. This land was used by the Town as a leaf and clearing debris dumping area. Based on review of aerial photographs, the site was active from prior to 1962 until after 1984. The dump area was accessed through the Serenity Place tap road off of Spinney Road, and clearing in the Town land was extensive. Since that time, the location has grown over to some extent. Serenity Place had remained an active access point for dirt bikes and ATVs until just a few months ago. This trespassing occurred on the Lewis Road PRD property and the Town land, and a walk on the Town site will reveal that this use scarred the land and was uncontrolled until DLC cut off the access. Now this Town land has the potential to be used for future trail connections. Realistically, this land is not easily accessed and does not appear to be extensively used for hiking. Given the historic context as a dump site, and the recent impacts of unauthorized use, this land cannot be considered an established recreational or educational trail. As demonstrated in the EIS record and other submissions to the Commission, the development areas of the Lewis Road site are set back from roads and public places and are not visually significant.



1984 Aerial Photograph of Town Dump Site (Suffolk County GIS)

The applicant commits to staking of clearing and grading limits as well as inspections to avoid disturbance, erosion or clearing off-site. As a result, the Commission has sufficient information to determine that the project complies with the Guideline.

Guideline 5.3.3.11.2 Inclusion of cultural resources in applications

- ***The Commission must determine whether the Project conforms to the Guideline based on the Town's Findings that there is no adverse impact on the resources identified in this Guideline.***

The Draft Staff Report indicates that there are no active recreation sites, historic sites or archaeological sites on or near the site, and further finds that the project conforms to this Guideline in bullets 1 and 2 on Page 13 of the Draft Staff Report. Bullet 3 indicates that Sunrise Highway is the only culturally significant road, and based on the Revised Plan, there is no disturbance on the site within 2,500 feet of Sunrise Highway. Bullet 4 indicates that the Town Findings indicate the project will not impact community character, local views or visual character of East Quogue. As a result, the Staff Report provides the information needed to determine consistency with this Guideline.

Guideline 5.3.3.11.3 Protection of scenic and recreational resources

- ***The Commission must determine whether the Project conforms to this Guideline.***

This Guideline relates to 5.3.3.11.1 above concerning the former Town dump site. A walk on the Town property finds that a dirt bike trail remains on this land east of the Lewis Road PRD; however, there is vegetative growth between the trail and the property line. In addition, along the length of the trail, there is a 3-4 foot high berm and vegetation cover including pitch pine, bayberry and oak species. The proposed project plans provide additional buffers of 32 to 197 feet, which is more than sufficient to provide visual screening between the Lewis Road PRD and the Town land. Since Prior Plan that was presented in February, the separation between the Town property and the proposed project has increased as demonstrated in the overlay of the Prior Plan and the Revised Plan submitted to the Commission on August 18, 2020 and partially depicted on the next page. Therefore,

there is no need for any further visual assessment and the project clearly complies with this Guideline.

Guideline 5.3.3.11.4 Roadside design and management

- ***The Commission must determine whether the Project conforms to this Guideline.***

This Guideline refers to “Undisturbed parts of the roadside” to protect scenic features. The Draft Staff Report indicates that the project may be visible from Lewis Road; however, Lewis Road is not an undisturbed roadside. The only listed undisturbed roadside is Sunrise Highway, and there is no disturbance within 2,500 feet of that road. The Draft Staff Report does indicate that the Applicant analyzed this Guideline and concluded that the project is in keeping with the character of the area, even if it is visible. As a result, the Commission clearly has sufficient information to determine that the project is consistent with this Guideline.

POTENTIAL RECOMMENDATIONS/DISCUSSION ITEMS/QUESTIONS

The Draft Staff Report closes with Potential Recommendations, Discussion Items and Questions. All of questions are answered in this response; however, for the sake of clarity, the following responses are provided.

Potential items to consider in addition to permits or other agency requirements identified in this evaluation.

1. ***No additional uses, density or intensity may be taken from the 176 lots from which yield, sewage flow and clearing rights were derived.***

Acknowledged.

2. ***Please explain why in the SONIR analysis the inputs in the population and number of units are both zero (0) where the inputs were not zero in other development projects.***

The SONIR model has the option to determine nitrogen load based on wastewater flow and concentration, or population and number of units. Because the proposed project will process sanitary wastewater to tertiary standards through Sewage Treatment Plant (STP) the appropriate determination of nitrogen load is based on wastewater flow and concentration. As a result, the population and number of units was correctly entered as zero (0).

3. ***Outparcels should be delineated and protected from disturbance and encroachments during and after construction.***

Acknowledged.

4. ***Has the Timperman property been acquired?***

Yes.

5. ***Clearing.***

- o ***The July 1 submission identifies a 207.69 acre “development area.” Please explain what is included in this area and how it relates to the maximum clearing limit of 171.93 acres where development will occur for the Project. Will the Project clear 171 acres or 161 acres? Explain***

the area references to 186 acres of naturally vegetated area within the development area and 390.73 acres of naturally vegetated area outside the development area. The term “development area” appears to be used to refer to more than one “area” and have more than one meaning. Please clarify.

The value of 207.69 acres is the area within the combined Hills South Parcel/Kracke Property within which all of the development will occur, and includes the golf course, the residences, the internal roadways, amenities and maintenance structures; this area is referred to on the Clearing Plan as the “Development Envelope.”

It is noted that not all of the land within the Development Envelope/Area will be cleared; an estimated 45.79 acres of natural vegetation in this area land will be retained; the remaining 161.90 acres represents the acreage to be cleared, of which 21.47 acres are already-cleared and 140.43 acres are naturally-vegetated. An additional 10.03 acres of already-cleared land will be outside the Development Envelope/Area.

The Clearing Plan shows that there are currently 186.22 acres of natural vegetation within the Development Envelope/Area, and that there are 390.73 acres of natural vegetation outside the Development Envelope/Area, for a total naturally-vegetated area of 576.95 acres of natural vegetation on the site.

- o Paths between fairways, emergency access, the main access road, and any clearing for the Project must be included in the limit. Regarding cart paths, the July 1 submission states, “Most connections between a given green and the next tee flow between holes without obstruction. Where topography and design features do not allow these connections to be made, minor paths through the woods will be used for carts to traverse to the next hole. No clearing will occur as a result of these paths.”***

All clearing is accounted for on project plans. All trails on the property were inventoried and mapped. The statement in the July 1 submission is accurate.

6. *Identify mitigation for the Project, if any.*

No mitigation is required. The project is designed to prevent adverse impacts. The lead agency concluded that there are no significant adverse impacts based on extensive review under SEQRA. What might be considered “mitigation” is inherent in the proposed project design.

7. *Maximum 15% fertilizer-dependent vegetation covenant.*

This is Acknowledged and plans demonstrate conformance.

8. *Native plantings. Utilize native plant genotypes to support species indigenous to the region. Consider coordinating clearing and landscaping/planting when and where feasible to reuse existing native plant material and seeds displaced for the Project.*

This is acknowledged and the Applicant is in agreement.

9. *Protect patches of scrub oak habitat to support the regional population of the coastal barrens buck moth, a NYS-listed Species of Special Concern, and its habitat, where feasible.*

This is acknowledged and is accomplished in the project plans.

- 10. Protect State-listed Rare Plants and Species of Greatest Conservation Need including birds and other wildlife identified on site, where feasible.**

Acknowledged.

- 11. Is the proposed buffer wide enough to provide protection measures for established trails on the adjoining public land in accordance with G5.3.3.11.1? Has the Project noted established and educational trails, trail corridors, scenic corridors, roads, vistas and viewpoints as per G5.3.3.11.2? Is an updated visual assessment required (G5.3.3.11.3)? Are buffers and other measures adequate to protect scenic and recreational resources and adjacent public lands? Are appropriate buffers maintained for the Project to demonstrate conformance with G5.3.3.11.4?**

There are no “established trails” adjoining the site pursuant to the definition in Guideline 5.3.3.11.1 and the project complies with this Guideline. The Draft Staff Report finds that the project complies with Guideline 5.3.3.11.3 as explained above. Buffers are adequate to protect scenic resources, and as noted, the Town land to the east is a former dump site. Further, there is sufficient screening and an existing berm between these uses. An updated visual assessment is not needed, as the Revised Plan is no closer to the Town land to the east than the Prior Plan. Responses herein clearly demonstrate that there are adequate buffers to demonstrate conformance with Guideline 5.3.3.11.4.

- 12. Consider the use of timers and motion detectors in non-seasonal months when the site is not in use to reduce nighttime lighting except where necessary for safety and security.**

Acknowledged.

- 13. The Commission reserves the right to review elements of the Project if they change or have an impact not previously identified and contemplated in this review.**

Acknowledged.

Thank you for the opportunity to clarify any final questions. The information in the record is sufficient to support a favorable decision on the pending application. The record concludes that the proposed project is consistent with all Standards and Guidelines of the CPB CLUP. Please contact NPV if there are any questions.