

Central Pine Barrens Joint Planning and Policy Commission
Meeting of February 3, 2022
Adopted Decision
Quogue Wildlife Refuge Core Preservation Area Compelling Public Need Hardship
3 Old Country Road, Village of Quogue
Suffolk County Tax Map Numbers 902-1-1-23.1 and 24 and 900-313-1-1.1

Present: Mr. Dale, for the Suffolk County Executive
Mr. Romaine, Brookhaven Town Supervisor
Ms. Aguiar, Riverhead Town Supervisor
Mr. Shea, for the Southampton Town Supervisor

I. The Project, Project Site, and Application

Quogue Wildlife Refuge (the Applicant or QWR) owns a 300-acre property (the Refuge) identified as Suffolk County Tax Map Numbers 902-1-1-23.1 and 24 in the Village of Quogue and 900-313-1-1.1 in the Town of Southampton (the Project Site), in the Central Pine Barrens Core Preservation Area. The Project Site is located at 3 Old Country Road in the Village of Quogue.

On December 3, 2021 the Applicant, through their agent, Michael Nelson, Executive Director, applied to the Central Pine Barrens Joint Planning and Policy Commission (the Commission) for a Core Preservation Area Compelling Public Need Hardship. for a development project that includes a 1,000 square foot expansion to the nature center and the construction of a 1,980 square foot storage building (the Project).

The nature center expansion will occur on the rear of the existing building that was constructed in 1970s. The expansion will be used for program, staff and group gathering space.

Approximately three trees will be removed for the Project and it is located at the greatest possible distance from the open water of the freshwater wetland habitat on the Project Site.

The storage building will be constructed in an area presently cleared and used for storage. No removal of natural vegetation will occur for the storage building. Temporary structures presently house equipment used for Refuge maintenance and recreational activities. The equipment presently stored in temporary structures and outdoors will be consolidated into the proposed storage building.

The Project Site is in Groundwater Management Zone III. Conventional sanitary systems will continue to be used until the Applicant upgrades the sanitary system to a new innovative alternative treatment system which is anticipated to be installed in the existing cleared parking lot. No new sanitary waste flow will be generated by the Project.

The January 6, 2022 correspondence from the New York State Office of Parks, Recreation and Historic Preservation stated the Project will have no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

The January 7, 2022 correspondence received from the New York Natural Heritage Program (NHP) reported a number of rare animals, plants and natural communities on the Project Site.

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. Section §57-0107(13) of the ECL defines development to be 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.”

ECL Section §57-0123(3)(a) provides that, “[s]ubsequent to the adoption of the land use plan, the provisions of any other law, ordinance, rule or regulation to the contrary notwithstanding, no application for development within the Central Pine Barrens area shall be approved by . . . the [C]ommission . . . unless such approval or grant conforms to the provisions of such land use plan; provided, however, that the [C]ommission by majority vote is hereby authorized to waive strict compliance with such plan or with any element or standard contained therein, for an application for development of any person, upon finding that such waiver is necessary to alleviate hardship for proposed development in the core preservation area according to the conditions and finding of extraordinary hardship . . . pursuant to subdivision ten of section 57-0121 of this title, and every application is consistent with the purposes and provisions of this article and would not result in substantial impairment of the resources of the Central Pine Barrens.”

On March 17, 2021, the Commission determined, at the Applicant’s request, that the Project constitutes development pursuant to the definitions in the Act and required the submission of a Core Preservation Area hardship application, subject to review and decision by the Commission. In accordance with Chapter 4 Section 4.5 of the Plan, QWR submitted the required application.

III. The Public Process, Testimony, and Supplemental Materials

The Application included Part I of the Full Environmental Assessment Form, a review of how the Project satisfies the hardship criteria outlined in the Act, a building elevation for the nature center expansion and a rendering of the storage building.

On January 5, 2022, the Commission scheduled a public hearing on the Application that was held on January 19, 2022. At the hearing, a Commission Staff Report with Exhibits was introduced into the record. The Applicant, under sworn testimony, addressed the concerns in the Staff Report and provide responses. Prior to the hearing, one member of the public submitted a written letter of support. Two members of the public provided comments at the hearing. The

comment period was held open until January 28 at noon. One letter of support was received during the comment period. A stenographic transcript was made of the hearing.

IV. State Environmental Quality Review Act (SEQRA) and Other Agency Jurisdictions

The proposal is a Type II Action pursuant to the State Environmental Quality Review Act (SEQRA) regulations.

The Project requires permits and/or approvals from other agencies including the Village of Quogue and New York State Department of Environmental Conservation (NYSDEC).

V. History of the Project Site

Before QWR was founded in 1934, the Old Ice Pond was used for ice harvesting by the Quogue Ice Company. In 1938, the Southampton Township Wildfowl Association (STWA) purchased 107 acres from the Quogue Ice Company. The easterly 104 acres of the former Ice Company was donated by Richard and George Post. In the 1980s, the Town of Southampton acquired another 100 acres for the QWR.

The present 300-acre QWR nature preserve has seven miles of passive recreational trails, ponds, a nature center, wildlife rehabilitation enclosures, a residence, outdoor storage area for kayaks and other equipment, an historic ice house, restroom facilities, parking and group gathering areas. Structures are concentrated at the sound end of the site. QWR offers programs to scouting groups and other environmental education and outreach programs for all ages.

VI. The Project Site and the Study Area

At the Commission's public hearing, the Staff Report described the Project Site and defined a Study Area that extends half mile from the site in all directions. The Study Area describes the land use pattern in the vicinity of the Project Site.

The Project Site is situated in the Town of Southampton and the Village of Quogue. Land uses in the Study Area include commercial and industrial uses on Old Country Road and low-density residential development to the east and south outside the Study Area.

Starting in the east side of the Study Area, in Southampton Town, the area is developed with single-family residential communities in the CGA. In the Village of Quogue portion of the Study Area, a commercial/industrial land use corridor is developed on Old Country Road, also in the CGA. Businesses on the south side of Old Country Road include contractors, gravel operations and a mini storage.

Quantuck Creek, a tidal creek in Shinnecock Bay, is located in the southern portion of the Study Area, south of the railroad tracks and outside of the Act's described Central Pine Barrens boundary. Although not in the Central Pine Barrens, this wetland ecosystem is an important roosting habitat for white egrets where they can be seen roosting in the trees around the open water.

Gabreski Airport occupies the west side and northerly end of the Study Area, also in the CGA, including runway facilities and undeveloped areas. Beyond Gabreski, in the northernmost limits of the Study Area is the Core Preservation Area and a mini-storage facility that has a conservation easement held by the Commission. The northeast corner of the Study Area contains a significant amount of protected farmland on the east side of CR 104 and beyond the Study Area limits in the vicinity of Lewis Road.

VII. Commission Review of the Compelling Public Need Hardship Request

In accordance with ECL Article 57 Section 57-0121(10), the Applicant explained their request in reference to the criteria outlined in the Act.

In accordance with Section 57-0121(10)(a)(i), the Project does not apply to or affect other property in the Study Area. The project site is a unique 300-acre nature reserve available to the public 365 days a year that offers passive recreational opportunities. There is no other similar area or facility in the Study Area. The facility is unique as distinguished from other nature preserves since it has an indoor visitor's/nature center where public programs and special events are offered and restrooms are provided, the staff offers guided tours and hikes, exhibits display live native flora and fauna and donated exotic animals, historical exhibits of the Refuge, rehabilitation enclosures protect injured or abandoned wildlife, staff maintain walking trails for public use, scouting badge programs and other outdoor recreational opportunities are hosted. No other similar facilities or open space preserves are located in the Study Area that offer the wide variety of public programs and experiences for public access that the Refuge provides.

In accordance with Section 57-021(10)(b)(i), the Project Site is in the Core and it cannot be moved elsewhere in Suffolk County or out of the Core. Therefore, the Project cannot be accommodated anywhere else but the Project Site. No feasible alternative locations are available for the Project.

The Project Site serves more than one municipality, the Village of Quogue and the Town of Southampton. The public benefits of QWR and the Project are of a character that override the importance of the protection of the minimal amount of natural vegetation that will be removed for the Project. According to the application, QWR is believed to be the oldest sanctuary on Long Island and is unique in its location, characteristics, and contributions to the public. The public activities offered by QWR are unlike other preserves and apply only to QWR in the Study Area. The Project Site's facilities including the nature center building and exhibits and environmental education staff who maintain open space at the Refuge and its facilities for public access, wildlife rehabilitation and outdoor recreational opportunities create a unique set of circumstances on the Project Site in its present location and for QWR to continue to achieve their mission, which is "...to serve as a responsible land steward of the historic Refuge property and its natural resources, while promoting, implementing, and supporting environmental education."

In accordance with ECL Article 57 Section 57-021(10)(b)(i), the application explained that the nature center addition will serve an essential health need for the community. The additional space for QWR staff to satisfy program needs support QWR mission to protect the Refuge's

resources, encourage outdoor recreation and provide environmental education. The Project will allow the Applicant to provide more programming opportunities and serve a public use.

The Project is designed to minimize adverse environmental impacts. This is demonstrated by the minimal disturbance to natural vegetation and use of previously cleared and utilized areas. The Project achieves the minimum relief necessary to ensure the integrity and continued protection of the Project Site and the Core Preservation Area.

The nearly 50 year old nature center is presently limited in its adequacy to accommodate a growing staff and public activity at QWR. Increased public interest at QWR has occurred in recent years due to factors including a growing local year-round population, heightened environmental awareness and a desire for outdoor recreational opportunities. The number of programs for scouts and school groups has also increased. Seven miles of safe and clear walking paths, wildlife rehabilitation efforts and environmental education programs for all ages require continued staff attention and stewardship.

The nature center addition will serve an essential health need for the community and will enable more programming opportunities and accommodate a greater number of visitors which furthers the Refuge's ability to effectively educate the public, communicate their mission, encourage outdoor recreation, spread awareness and appreciation of natural resources.

VIII. Conclusion

The Project entitled Quogue Wildlife Refuge delineated in the December 3, 2021, Core Preservation Area compelling public need hardship application is entitled to a hardship exemption for the foregoing reasons and therefore is approved, subject to the following conditions.

1. Prior to disturbance, install temporarily snow fence on the limits of disturbance for the Project during construction and remove temporary fencing when construction is complete.
2. Submit the NYSDEC Freshwater Wetlands permit, if one is required and obtained.
3. When the Project is complete, submit an as built plan(s) for the Nature Center and the storage building for the Commission's records.
4. If a site plan is produced, please submit a copy for the Commission's records.
5. Avoid the installation of outdoor night lighting or where it is necessary, install dark skies friendly fixtures.
6. Conform with all other local, County and State regulatory permit requirements.
7. Approval to commence construction shall expire five (5) years from the date of this Resolution.
8. Any changes of the Project, as approved, must be reviewed and approved by the Commission.

Motion to Approve

Quogue Wildlife Refuge Core Preservation Area Compelling Public Need Hardship

Date: February 3, 2022

Motion By: Mr. Shea

Seconded: Mr. Dale

Vote:

Yes: 4 (Mr. Dale, Mr. Romaine, Ms. Aguiar, Mr. Shea)

No: None

Abstain: None

Absent: None

Copies of This Decision Will be Sent To:

New York State Department of Environmental Conservation, Division of Environmental Permits, Region 1

Suffolk County Department of Health Services

Town of Southampton Supervisor

Town of Southampton Town Clerk

Town of Southampton Department of Land Management

Town of Southampton Building Department

Village of Quogue Village Clerk

Village of Quogue Building Department

Applicant