



**COUNTY CLERK'S OFFICE**  
**STATE OF NEW YORK**  
**COUNTY OF SUFFOLK**

I, JUDITH A. PASCALE, Clerk of the County of Suffolk and the Court of Record thereof do hereby certify that I have compared the annexed with the original  
**DECLARATION**

recorded in my office on **3/18/2014** under Liber **D00012767** and Page **367** and, that the same is a true copy thereof, and of the whole of such original.

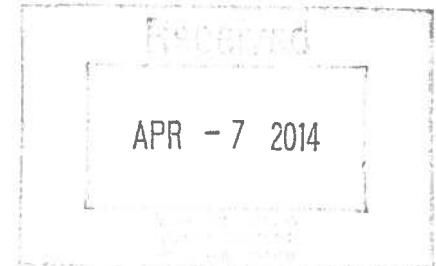
In Testimony Whereof, I have hereunto set my hand and affixed the seal of said County and Court this **3/18/2014**.

**SUFFOLK COUNTY CLERK**

*Judith A. Pascale*

**JUDITH A. PASCALE**

**SEAL**





**SUFFOLK COUNTY CLERK  
RECORDS OFFICE  
RECORDING PAGE**

Type of Instrument: DECLARATION

Recorded: 03/18/2014

Number of Pages: 20

At: 02:08:32 PM

Receipt Number : 14-0033554

LIBER: D00012767  
PAGE: 367

District: Section: Block: Lot:  
0600 135.00 01.00 007.034

**EXAMINED AND CHARGED AS FOLLOWS**

**Received the Following Fees For Above Instrument**

		Exempt		Exempt
Page/Filing	\$100.00	NO	Handling	\$20.00
COE	\$5.00	NO	NYS SRCHG	\$15.00
TP-584	\$0.00	NO	Notation	\$0.00
Cert. Copies	\$13.00	NO	RPT	\$60.00
			Fees Paid	\$213.00

**THIS PAGE IS A PART OF THE INSTRUMENT  
THIS IS NOT A BILL**

**JUDITH A. PASCALE  
County Clerk, Suffolk County**

*Received*

APR - 7 2014

Number of pages 20

This document will be public record. Please remove all Social Security Numbers prior to recording.

RECORDED  
2014 Mar 18 02:08:32 PM  
JUDITH A. PASCALE  
CLERK OF  
SUFFOLK COUNTY  
L D00012767  
P 367

Deed / Mortgage Instrument	Deed / Mortgage Tax Stamp	Recording / Filing Stamps
3	FEES	
Page / Filing Fee <u>100</u>	5 Mortgage Amt. _____	
Handling <u>20.00</u>	1. Basic Tax _____	
TP-584	2. Additional Tax _____	
Notation _____	Sub Total _____	
EA-52 17 (County) _____	Sub Total <u>120</u>	
EA-5217 (State) _____	6 Spec. / Assist. _____	
R.P.T.S.A. <u>60.00</u>	or	
Comm. of Ed. <u>5.00</u>	Spec. / Add. _____	
Affidavit _____	TOT. MTG. TAX _____	
Certified Copy <u>13</u>	Dual Town _____ Dual County _____	
NYS Surcharge <u>15.00</u>	Held for Appointment _____	
Other _____	Transfer Tax _____	
	Mansion Tax _____	
	The property covered by this mortgage is or will be improved by a one or two family dwelling only.	
	YES _____ or NO _____	
	If NO, see appropriate tax clause on page # _____ of this instrument.	



4 0600  
Dist.

2692767  
P T S  
R SMI A  
14-MAR-14

0600 13500 0100 007034

Real Property  
Tax Service  
Agency  
Verification

6 Satisfactions/Discharges/Releases List Property Owners Mailing Address  
RECORD & RETURN TO:

Cramer Consultants  
54 North Country Road  
Miller Place, N.Y. 11764

7 5 Community Preservation Fund

Consideration Amount \$ \_\_\_\_\_

CPF Tax Due \$ \_\_\_\_\_

Improved \_\_\_\_\_  
Vacant Land \_\_\_\_\_  
TD \_\_\_\_\_  
TD \_\_\_\_\_  
TD \_\_\_\_\_

Mail to: Judith A. Pascale, Suffolk County Clerk  
310 Center Drive, Riverhead, NY 11901  
www.suffolkcountyny.gov/clerk

7 Title Company Information  
Co. Name Safe Harbor Title Agency, L  
Title # SH 135 488 SS Csy 8418

8 Suffolk County Recording & Endorsement Page

This page forms part of the attached DECLARATION OF COVENANTS made by

ISLAND WATER PARK CORP The premises herein is situated in  
SUFFOLK COUNTY, NEW YORK.

CENTRAL PINE BARRENS JOINT  
PLANNING and Policy Commission

In the TOWN of RIVERHEAD  
In the VILLAGE \_\_\_\_\_  
or HAMLET of CALVERTON

BOXES 6 THRU 8 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING.

SH13548055  
Ctsy8418

APR - 7 2014

**DECLARATION OF COVENANTS AND RESTRICTIONS**

This declaration made as of the 23<sup>rd</sup> day of December, 2013, by ISLAND WATER PARK CORP. a domestic corporation with offices located at 450A, Main Street, Port Jefferson, New York 11777 (hereinafter referred to as the "Declarant");

**WITNESSETH:**

**WHEREAS**, Declarant is the owner in fee simple of the real property located at south side of NYS Route 25, Calverton NY, identified on the Suffolk County Tax Map as 0600-135-1-7.34 and more fully described in Exhibit "A" annexed hereto and made a part hereof (the "Property"); and

**WHEREAS**, on September 13, 2011, Declarant made an application to the Central Pine Barrens Joint Planning and Policy Commission (the "Commission") for a Compatible Growth Area Extraordinary Hardship Exemption pursuant to § 57-0121 (10) of the New York State Environmental Conservation Law; and

**WHEREAS**, on December 21, 2011, after due deliberation and consideration, the Commission determined that the Declarant's Compatible Growth Area Extraordinary Hardship Exemption application meets the criteria for a Compatible Growth Area Hardship pursuant to §57-0121(10) of New York State Conservation Law; and

**WHEREAS**, on December 21, 2011, the Commission adopted a resolution entitled " Adopted Resolution Island Water Park Compatible Growth Area Hardship" (the "Approval Resolution") annexed hereto as Exhibit "B"; and

**WHEREAS**, on May 13, 2013, the Commission received correspondence, dated April 25, 2013, from the Declarant, requesting an amendment to the resolution issued by the Commission on December 21, 2011; and

**WHEREAS**, on September 18, 2013, after due deliberation and consideration, the Commission determined that the Declarant's request for an amendment to the resolution issued by the Commission on December 21, 2011 meets the criteria for a Compatible

Growth Area Hardship pursuant to §57-0121(10) of New York State Conservation Law; and

**WHEREAS**, on September 18, 2013, the Commission adopted a resolution entitled “ Adopted Amendment to Island Water Park Compatible Growth Area Hardship Waiver” (the “Approval Resolution”) annexed hereto as Exhibit “C”; and

**WHEREAS**, the Approval Resolution requires, *inter alia*, that the Declarant cause the Approval Resolution and the covenants and restrictions contained herein to be recorded in the Office of the Clerk of Suffolk County; and

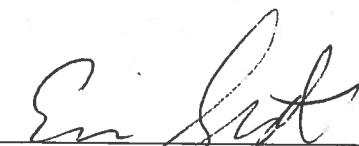
**WHEREAS**, the Declarant desires to comply with the conditions of the Approval Resolution; and

**NOW THEREFORE**, in consideration of the premises, the Declarant hereby declares that the Property is held subject to the following covenants and restrictions and as illustrated in the Site Plan titled Planting and Lighting Plan Sheet SP-3 Sheet 4 of 18 prepared by Cramer Consulting Group last revised on 10/28/13 received on 11/14/13 (hereinafter the “Site Plan”):

1. No clearing of vegetation shall occur in the existing 5.1 acre natural area of the site.
2. A minimum of 35% of the Property, (14.67 acres) shall be set aside and preserved as a natural area following completion of the Project and shall be comprised of the existing 5.1 acre and 9.57 acres of re-vegetated area (hereinafter the “Natural Area”) as more particularly labeled on the Conservation Easement Summary Plan and attached as Schedule “D”.
3. After the issuance of a Certificate of Occupancy, no clearing shall occur in the Natural Area. The Natural Area shall constitute naturally-vegetated area and activities proposed thereon shall be subject to the CLUP.
4. Fertilizer may only be applied to no more than 4% of the Project Site, excluding the Natural Area.
5. After being established, the proposed Biofiltration Areas or Rain Gardens shall be protected from disturbance.
6. The above recitals are incorporated herein and are made a part hereof.

7. These covenants and restrictions were conditions to obtain hardship waiver and are for the benefit of and enforceable by the Commission and shall be and constitute real covenants running with the land and shall be binding upon the Declarant and any and all subsequent owners of said Property or any part thereof, and upon their heirs, executors and administrators, or their successors and assignees subject, however, to the right of the Commission, upon request by the Declarant, its successors and assignees, to amend, alter, annul or repeal any or all of the foregoing covenants and/or restrictions at any time.

**IN WITNESS WHEREOF**, the Declarant has executed this Declaration the day and year first above written.



ERIC SCOTT, President  
Title

(For use within New York State only)

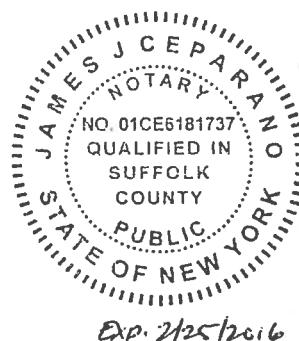
STATE OF NEW YORK )  
                         ) SS:  
COUNTY OF SUFFOLK )

On the 23rd day of December, in the year 2013, before me, a notary in and for said state, the undersigned, personally appeared Eric Scott, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

(For use outside New York State only)

STATE OF New York )  
                         ) SS:  
COUNTY OF Suffolk)



SAFE HARBOR TITLE AGENCY, LTD.

Title No. SH135480SS

SCHEDULE A

ALL that certain plot, piece or parcel of land, situate, lying and being at Calverton, in the Town of Riverhead, County of Suffolk and State of New York, being bounded and described as follows:

BEGINNING at a point on the southerly side of State Road 25 (a/k/a Middle Country Road), distant the following five (5) courses and distances, as measured along the southerly side of Route 25, from the corner formed by the intersection of the southerly side of Route 25 and the easterly side of Wading River-Manorville Road (CR 25):

- 1) North 53 degrees 57 minutes 26 seconds East, 153.37 feet;
- 2) Northeasterly along an arc of a curve having a radius of 5769.65 feet, a distance of 407.82 feet;
- 3) North 49 degrees 54 minutes 26 seconds East, 880.00 feet;
- 4) Northeasterly along an arc of a curve having a radius of 1392.69 feet, a distance of 254.39 feet;
- 5) North 60 degrees 22 minutes 23 seconds East, 1935.68 feet;

RUNNING THENCE North 06 degrees 22 minutes 23 seconds East, 27.28 feet;

THENCE South 06 degrees 06 minutes 42 seconds East, 1116.35 feet;

THENCE South 84 degrees 59 minutes 41 seconds East, 832.78 feet;

THENCE South 06 degrees 06 minutes 42 seconds East, 2223.58 feet;

THENCE North 84 degrees 59 minutes 41 seconds West, 815.30 feet;

THENCE North 06 degrees 06 minutes 42 seconds West, 1144.13 feet;

THENCE North 08 degrees 16 minutes 10 seconds West, 1120.83 feet;

THENCE North 06 degrees 07 minutes 37 seconds West, 1068.24 feet to the southerly side of State Route 25 and the point or place of BEGINNING.

District: 0600 Section: 135.00 Block: 01.00 Lot: 007.034

**SCEHDULE "B"**

**Commission Meeting of December 21, 2011  
Riverhead Town Hall, Riverhead**

Present: Mr. Scully (New York State), Mr. Culhane (Suffolk County),  
Mr. Lesko (Brookhaven), Mr. Walter (Riverhead), Ms. Throne-Holst (Southampton)

**Adopted Resolution Island Water Park  
Compatible Growth Area Hardship  
Hamlet of Calverton, Town of Riverhead, SCTM #: 600-135-1-7.34**

**Whereas**, Island Water Park owns a 41.9 acre parcel of land located approximately 440 feet south of NYS Route 25, 2,376 feet east of Wading River Manorville Road, in the Compatible Growth Area, in the hamlet of Calverton, Town of Riverhead (the "Project Site"), designated as # 600-135-1-7.34 on the Suffolk County Tax Map; and

**Whereas**, the Project Site is in the Town of Riverhead's Planned Recreational Park (PRP) Zoning District; and

**Whereas**, previously, in 2003, the Town Board of the Town of Riverhead adopted a conditional approval for the Site Plan application of Island Water Park (resolution #175) and the New York State Department of Environmental Conservation (NYSDEC) approved a new Article 23 Title 27 Mine Land Reclamation Permit #1-4730-01022/00001 for the excavation and construction of two private recreational lined water ski ponds covering 18.70 acres on the project site and the operation of motor boats for the use, as per the Site Plan prepared by Hawkins Webb Jaeger Associates, P.C. dated August 5, 2002; and

**Whereas**, the Project Site is disturbed due to the previously approved clearing and mining activities; specifically, 36.8 acres or 87.83% of the Project Site is currently cleared, and 5.10 acres or 12.17% of the Project Site is naturally vegetated; and

**Whereas**, Island Water Park proposes to clear an additional 1,700 square feet or 0.09% of the Project Site's existing natural vegetation to develop a commercial water ski park; the development includes construction of an 11-acre unlined, groundwater-fed lake on which water skiers and wake boarders will be towed using a series of electric cable systems; a passive use trail, construction of a 55,200 square foot facility for use as a restaurant, fitness center/spa, warehouse/maintenance facility, and office; an on-site septic system; parking for 94 cars and related infrastructure with site access via a curb cut on Middle Country Road (NYS Route 25); and revegetation of a total area of 19.74 acres of the Project Site (the "Project"), as shown on the Site Area Plan Sheet SP-0 prepared by Cramer Consulting Group, dated February 26, 2011; and

**Whereas**, the Project must conform to the provisions of the Central Pine Barrens Comprehensive Land Use Plan (CLUP), including CLUP Standard 5.3.3.6.1, Vegetation Clearance Limits, which authorizes Island Water Park to clear up to 65% of the Project Site based upon the Project Site's inclusion in the "Commercial, Industrial and Other or Mixed Use" category in Figure 5-1 of the CLUP on the date of the CLUP's adoption; and

P.O. Box 587  
3525 Sunrise Highway  
2<sup>nd</sup> Floor  
Great River, NY  
11739-0587

Phone (631) 224-2604  
Fax (631) 224-7653  
[www.pb.state.ny.us](http://www.pb.state.ny.us)

**Whereas**, the Project does not comply with CLUP Standard 5.3.3.6.1 because Island Water Park proposes an additional, *de minimus* amount of clearing of 1,700 square feet on the Project Site in excess of the Standard, resulting in the total clearance of 36.84 acres or 87.92% of the Project Site (36.8 acres or 87.83% of the Project Site is currently cleared which, when combined with the proposed clearing of 1,700 square feet (0.09%), results in total clearing of 36.84 acres or 87.92% of the Project Site); and

**Whereas**, as the Project does not comply with the CLUP, Island Water Park, through its consultant, Cramer Consulting Group, submitted an application dated September 14, 2011 (the "Application") to the Central Pine Barrens Joint Planning and Policy Commission (the "Commission") for a Compatible Growth Area ("CGA") Hardship exemption to obtain a waiver from CLUP Standard 5.3.3.6.1 Vegetation Clearance Limits to enable development activity to occur on the Project Site; and

**Whereas**, pursuant to the ECL Article 57, in determining whether to grant Island Water Park a CGA hardship exemption for the Project, the Commission shall consider, among other things, the criteria set forth in New York State Town Law §267-b(2) and determine whether the Project is consistent with the purposes and provisions of the Act and whether the Project will result in a substantial impairment of the resources of the Central Pine Barrens area, pursuant to ELC §57-0123(3)(b); and

**Whereas**, the Island Water Park Hardship application included an analysis of the hardship criteria contained in ECL §57-0121 in support of its Waiver application; and

**Whereas**, the Commission held a public hearing on the Project on November 17, 2011 and a stenographic transcript of the public hearing was received on November 30, 2011 and distributed to the Commission; and

**Whereas**, in considering the criteria set forth in Town Law §267-b(2)(2), the Commission finds that the hardship, as it relates to the Project Site, is unique due to the previously-permitted disturbance on the Project Site and the existing configuration of fragmented existing natural vegetation, the majority of which is on the perimeter and in the center of the Project Site, which constrain the ability to create an unfragmented block of area to remain natural; and

**Whereas**, the Commission finds that the requested exemption will not alter the essential character of the neighborhood given the pattern of development surrounding the Project Site and that the Project is consistent with the existing zoning of the site in the Planned Recreational Park district and permitted land uses in the vicinity of the Project Site, including the EPCAL property to the east, and with the established community character; and

**Whereas**, Island Water Park has demonstrated that the Project Site was cleared and excavation occurred under prior approvals, and the current configuration of the existing natural vegetation on the Project Site, although generally situated on the perimeter, will largely be retained in its current location to minimize further fragmentation; and

**Whereas**, the Commission finds that Island Water Park cannot satisfy the requirements contained in Standard 5.3.3.6.1 (the Vegetation Clearance Limits) while simultaneously satisfying the requirements of Standard 5.3.3.6.2 (the Unfragmented open space) because in order to meet the clearing standard the site plan would require additional fragmentation of open space and natural vegetation on the site, and in order to meet the unfragmented open space standard, the site

plan would require additional clearing of native vegetation, beyond that permitted by the clearing standard; and

**Whereas**, the Commission finds the Project is consistent with the Act because the Project has been designed to minimize the amount of clearing necessary to complete the Project and the Project's environmental impact on groundwater resources by eliminating the use of motorized boats on the lake proposed in the previous iteration of the Project; and

**Whereas**, the Project will mitigate potential adverse environmental impacts by revegetating 19.74 acres of cleared areas on the Project Site with native pine barrens vegetation and wildlife habitat. Island Water Park will be required to submit a revegetation plan, subject to Commission review and approval, prior to commencement of activity on the Project Site; and

**Whereas**, the proposed Project revegetation is consistent with previous Commission approvals which required restoration of vegetation and habitat as mitigation for development projects including the applications of the Long Island Power Authority Riverhead Substation Expansion Core Hardship, Willow Wood at Coram CGA Hardship, and The Meadows at Yaphank Planned Development District Development of Regional Significance; and

**Whereas**, successful implementation of the Project's mitigation plan will require the preparation, submission, approval, and monitoring of a Revegetation Plan for 19.74 acres of the Project Site; and

**Whereas**, the Project will comply with all other Standards of the CLUP; and

**Whereas**, the Project is a Type I Action pursuant to the New York State Environmental Quality Review Act ("SEQRA") for which NYSDEC, the Lead Agency, performed a coordinated review and adopted, on November 10, 2011, a Negative Declaration stating that the Project would not have a significant adverse impact on the environment; and

**Whereas**, the Commission has considered all of the materials submitted in connection with the Project, now, therefore, be it,

**Resolved**, that the above recitals are incorporated herein and made a part hereof; and be it further

**Resolved**, that the Commission hereby determines the Application, as submitted, meets and satisfies the criteria for a Compatible Growth Area Hardship pursuant to the Act; and be it further

**Resolved**, that the Application is approved in accordance with the Site Area Plan Sheet SP-0 prepared by Cramer Consulting Group dated February 26, 2011, received by the Commission on September 14, 2011, subject to the following specific conditions:

1. Prior to commencement of development activity, within 60 days of the date of this approval the applicant shall submit a revised Site Area Plan that states:
  - a. "Existing amount of clearing: 36.8 acres or 87.83%."
  - b. "Amount of area to remain natural: 5.1 acres"
  - c. "Amount of additional clearing: 1,700 square feet"
  - d. "Total amount of clearing for the Project including existing and proposed: 36.84 acres or 87.92%."

- e. "Amount of area to be revegetated: 19.74 acres. Note: See separate Revegetation Plan"
- f. "Total natural and revegetated area to be managed by the owner: 24.83 acres"
- g. "Note: See conditions of approval in the Central Pine Barrens Joint Planning and Policy Commission decision dated December 21, 2011."

2. Revegetation Plan.

- a. Within 60 days of the date of this approval, the owner shall submit a Revegetation Plan, subject to Commission review and approval. No activity related to construction or development of the Project Site shall commence until the Revegetation Plan is approved, in writing, by the Commission. The owner shall notify the Commission in writing a minimum of 48 hours prior to the commencement of revegetation activity and no more than 48 hours after revegetation is completed.
- b. The completed revegetated shall be subject to an inspection by the Commission to ensure that it complies with the approved Revegetation Plan.
- c. The Revegetation Plan shall contain: a Revegetation Detail Plan, a Maintenance Plan, and a Reporting Plan.
- d. Revegetation Detail Plan: The Revegetation Detail Plan shall:
  - i. Encompass the 19.74 acre area to be revegetated.
  - ii. Contain a minimum of approximately 9.87 acres of a mix of native tree species including pitch pine, scarlet oak, white oak, Eastern Red Cedar and a minimum of approximately 9.87 acres of native shrubs such as bayberry, lowbush blueberry, inkberry, and American Shadbush, and Long Island Meadow Mix composed of grassland species native to the Central Pine Barrens.
  - iii. Provide planting specifications, composition of species in the meadow mix, and source of seed for review by the Commission.
- e. Maintenance and Monitoring Plan: The Maintenance Plan shall:
  - i. State that the owner of the Project Site is responsible for its implementation. In the case of a change in ownership, the successor shall be the responsible party.
  - ii. Be designed and monitored to ensure that, at a minimum, 85 percent of the plants installed in the revegetated areas, pursuant to the Revegetation Plan, survive for a minimum of three (3) years from the date of completion of revegetation work.
  - iii. Specify how the revegetation area will be maintained, including, but not limited to, irrigation details and mowing specifications.
  - iv. Contain a replanting schedule.
  - v. No herbicides may be used on the project site in the revegetation area for any activity, including the control of invasive species.
- f. Reporting Plan: The Reporting Plan shall:

- i. Set forth a schedule, on at least a biannual basis for three (3) years, for submitting reports to the Commission concerning the status and success of the Revegetation Plan.
  - ii. Set forth the Reporting Plan elements including, but not limited to, the date and time of inspection, name and qualifications of person conducting inspection, color digital photographs of the revegetated area taken at the time of each inspection, relative health of revegetated area including whether or not an 85 percent survival rate of native species is being attained and, if not, corrective methods to be employed and whether or not invasive species are present and, if so, name of invasive species and corrective methods to be employed.
  - iii. Commission Staff shall be permitted site access to perform inspections during the minimum three (3) year maintenance period.
3. Prior to the commencement of activities on the Project Site, Island Water Park shall:
  - a. Stake limits of clearing around all areas referenced to "remain" natural, as shown on the Site Area Plan, for inspection by Commission Staff prior to commencement of construction activity.
  - b. Notify the Commission's Compliance and Enforcement Coordinator a minimum of 48 hours in advance of initial site disturbance to allow for Commission inspection of site disturbance limits.
  - c. Install snow fencing around the existing 5.1 acre area that will remain natural. This area shall be set aside in its current natural state to undergo natural ecological processes. No clearing of the understory, application of herbicides, or other activity is permitted in this area.
4. Prior to the commencement of activities on the Project Site, Island Water Park shall prepare covenants and restrictions (the "Covenants") for the Project Site stating that there shall be no disturbance of the areas designated on the Site Plan to remain natural. Island Water Park shall prepare the Covenants and submit the same to the Commission for its approval. If approved by the Commission, the owner shall promptly file the Covenants with the Suffolk County Clerk. If rejected by the Commission, Island Water Park shall revise the Covenants as per the Commission's comments and re-submit the same for its approval. This cycle shall continue until the Commission approves the Covenants. Until the Covenants are approved and recorded, no activity may occur on the Project Site.

The Covenants must state:

- a. The area to remain natural, 5.10 acres.
  - b. The area to be revegetated, 19.74 acres.
  - c. Total protected area, 24.84 acres.
  - d. The only 4% of the Project Site may be developed with fertilizer dependent vegetation,
  - e. Fertilizer may only be applied to 4% of the Project Site.
5. The proposed "Biofiltration Areas" or "Rain Gardens" shall be constructed in existing cleared areas and not made part of any area in the conservation easement that contains areas to remain natural or revegetated areas.

6. This resolution must be attached to any title or deed transfer when the site changes ownership to ensure the transfer of responsibilities to new owner(s) and notification requirements continue in accordance with this approval. The current owners, successors or assigns shall be responsible for compliance with this approval including completion of revegetation activity and protection thereof.
7. The owner shall obtain additional permits and approvals, as required by law, prior to commencement of the Project. Island Water Park must forward copies of such approvals including, but not limited to the SCDHS approval, SPDES Permit, and any other applicable permits to the Commission Office two weeks prior to commencement of site work.
8. This approval shall expire five (5) years from the date of approval by the Commission. For an extension of this Waiver, the applicant shall seek reauthorization from the Commission, subject to its review.

**Resolved**, a copy of this resolution shall be filed with the Suffolk County Clerk indexed against the property.

**Record of Motion:**

Motion by: Mr. Walter

Seconded by: Mr. Lesko

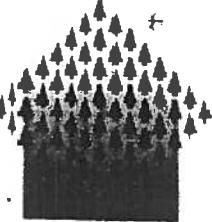
In Favor: 5

Opposed: 0

Abstention: 0

SCHEDULE "C"

APR - 7 2014



## Commission Meeting of September 18, 2013 Brookhaven Town Hall

Present: Mr. Scully (for New York State),  
Ms. Lansdale (for Suffolk County), Ms. Prusinowski (for Brookhaven Town),  
Mr. Walter (for Riverhead Town), Ms. Throne-Holst (for Southampton Town)

### Adopted Amendment to Island Water Park Compatible Growth Area Hardship Waiver Hamlet of Calverton, Town of Riverhead, SCTM #: 600-135-1-7.34

**Whereas**, by resolution dated December 21, 2011, the Central Pine Barrens Commission approved a Compatible Growth Area Hardship Waiver for the project known as Island Water Park; and

**Whereas**, the 41.9-acre Island Water Park project site is located in the Compatible Growth Area of the Central Pine Barrens, on the west side of Enterprise Park at Calverton, south of NYS Route 25 and north of Grumman Boulevard, Suffolk County Tax Map #: 600-135-1-7.34; and

**Whereas**, this resolution incorporates by reference all of the findings in the December 21, 2011 approval; and

**Whereas**, on May 13, 2013, Island Water Park (the applicant) by its representatives, Cramer Consulting Group, requested an amendment to the CGA Hardship Waiver and submitted amended site plans including the Site Data Sheet (Sheet SP-0) prepared by Cramer Consulting Group dated September 26, 2012; the Grading Plan (Sheet SP-2) prepared by Cramer Consulting Group dated September 27, 2012, and the Layout Plan (SP-1), Planting and Lighting Plan (SP-3), Site Details (SP-4), Drainage Plan (SP-7), and Drainage Calculations (SP-8) prepared by Cramer Consulting Group and dated August 15, 2012; and

**Whereas**, on August 22, 2013, the applicant submitted additional information clarifying the proposed amendment; and

**Whereas**, on September 6, 2013, the applicant submitted a copy of the Town of Riverhead resolution approval to approve the Site Plan of Island Water Park dated March 5, 2013; and

**Whereas**, the applicant represents that the Site Plan for Island Water Park was amended as a result of the Town's approval, including an increase in parking, a modification to the amount of revegetation, and other site plan elements; and

**Whereas**, the amended Site Plan reduce the amount of revegetation on the project site from 19.74 acres to 18.82 (difference of 0.92 acres); and

**Whereas**, the amended Site Plan include retaining the existing 5.1 acres of natural area in addition to the 18.82 acres of revegetation, for a total of 23.92 acres of natural area once revegetation is complete; and

**Whereas**, the New York State Department of Environmental Conservation (NYSDEC), the Lead Agency pursuant to the State Environmental Quality Review Act (SEQRA), performed a coordinated review and adopted, on November 10, 2011, a Negative Declaration stating that the Project would not have a significant adverse impact on the environment; and no further environmental review is required by the Commission for the current amendment; and

**Whereas**, all other elements of the amended Site Plan are consistent with the December 21, 2011 approval; now therefore be it

**Resolved**, the Commission approves the amended Site Plan and the amendment to the Island Water Park CGA Hardship Waiver in accordance with the Site Data Sheet (Sheet SP-0) prepared by Cramer Consulting Group dated September 26, 2012 and received by the Commission on May 13, 2013; the Grading Plan (Sheet SP-2) prepared by Cramer Consulting Group dated September 27, 2012, and the Layout Plan (SP-1), Planting and Lighting Plan (SP-3), Site Details (SP-4), Drainage Plan (SP-7), and Drainage Calculations (SP-8) prepared by Cramer Consulting Group and dated August 15, 2012, received by the Commission on May 13, 2013, subject to the following specific conditions:

1. Submit a copy of the As-Built Site Plan and Revegetation Plan to the Commission which references the December 21, 2011 Hardship Waiver and this amendment dated September 18, 2013.
2. Retain the 5.1 acres of existing natural vegetation in its natural state, and protect it through the filing of a Declaration of Covenants and Restrictions in the Office of the Suffolk County Clerk.
3. Revegetation:
  - a. Revegetate 18.82 acres of the project site with natural pine barrens vegetation, as per the Planting and Lighting Plan Sheet SP-3 prepared by Cramer Consulting Group dated August 15, 2012. Protect the 18.82 acres of revegetated area through the filing of Covenants and Restrictions.
  - b. The owner shall notify the Commission in writing a minimum of 48 hours prior to the commencement of revegetation activity and no more than 48 hours after revegetation is completed.
  - c. The 18.82 acre area of revegetation shall be subject to an inspection by the Commission to ensure that it complies with the approved Revegetation Plan.
- d. Maintenance and Monitoring:
  - i. The owner of the Project Site is responsible for maintaining and monitoring the success of revegetation. In the case of a change in ownership, the successor shall be the responsible party.
  - ii. Ensure that, at a minimum, 85 percent of the plants installed in the 18.82 acre revegetated area survive for a minimum of three (3) years from the date of completion of revegetation work.
  - iii. Irrigate as necessary and in accordance with planting specifications.

- iv. Replace dead or diseased plantings in the revegetated areas in kind during the three-year period.
- v. Once vegetation in the revegetated areas has been constituted after three years, the 18.82 acre revegetated area will be considered a pre-existing, established natural and thereafter shall be subject to the provisions of Chapter 5 of the Comprehensive Land Use Plan (CLUP) Standards and Guidelines for Land Use in regard to any future activities on the Project site.
- vi. No herbicides may be used on the project site in the revegetation area for any activity, including the control of invasive species.
- vii. Where mulch material is needed, use Native Mulch Materials including native leaf litter, pine needles or finely shredded wood. This will keep area moist and reduce occurrence of weeds.
- viii. Plantings may be irrigated temporarily, as needed, until they become established. Thereafter, any temporary irrigation systems should be removed.

e. Reporting:

- i. Report to the Commission on at least a biannual basis for three (3) years, on the status and success of the 18.82 acre revegetation area.
- ii. Plantings may be irrigated temporarily, as needed, until they become established. Thereafter, any temporary irrigation systems should be removed.
- iii. The report must include, but not be limited to:
  - the date and time of inspection
  - name and qualifications of person conducting inspection
  - color digital photographs of the revegetated area taken at the time of each inspection
  - relative health of revegetated area, including whether or not an 85 percent survival rate of native species is being attained, and, if not, corrective methods to be employed
  - whether or not invasive species are present and, if so, name of invasive species and corrective methods to be employed.
- iv. Commission Staff shall be permitted site access to perform inspections during the minimum three (3) year maintenance period.

4. Prior to the commencement of activities on the Project Site, Island Water Park shall:

- a. Stake limits of clearing around all areas referenced to "remain" natural, as shown on the Site Area Plan, for inspection by Commission Staff prior to commencement of construction activity.
- b. Notify the Commission's Compliance and Enforcement Coordinator a minimum of 48 hours in advance of initial site disturbance to allow for Commission inspection of site disturbance limits.
- c. Install temporary snow fencing around the existing 5.1 acre area that will remain natural. This area shall be set aside in its current natural state to undergo natural ecological processes. No clearing of the understory, application of herbicides, or other physical activity is permitted in this area. The temporary snow fencing shall be removed after all on-site physical development activities have been completed.

5. Covenants and Restrictions.

- a. Prior to the commencement of activities on the Project Site, Island Water Park shall prepare Covenants and Restrictions (the "Covenants") for the Project Site granted to the Commission stating that there shall be no disturbance of the areas designated on the Site Plan to remain natural and revegetation areas. Island Water Park shall prepare the Covenants and submit the same to the Commission for its approval. If approved by the Commission, the owner shall promptly file the Covenants with the Suffolk County Clerk. If rejected by the Commission, Island Water Park shall revise the Covenants as per the Commission's comments and re-submit the same for its approval. This cycle shall continue until the Commission approves the Covenants. Until the Covenants are approved and recorded, no physical activity may occur on the Project Site.
- b. The Covenants must state:
  - i. No clearing of vegetation shall occur in the existing 5.1 acre natural area of the site.
  - ii. A minimum of 35 percent of the project site, which is 14.67 acres of the 41.9 acre project site, shall be set aside and preserved as natural area following completion of the site plan and shall be comprised of the existing 5.1 acre natural area and 9.57 acres of revegetated area.
  - iii. After completion of the site plan, no clearing shall occur in the future in the 35 percent area of the project site (14.67 acres) which comprises the protected existing natural and revegetated area. After it has become established, the revegetated area will be considered to constitute naturally-vegetated area and thereafter shall be subject to the CLUP.
  - iv. Fertilizer may only be applied to no more than 4% of the Project Site.
  - v. Biofiltration Areas or Rain Gardens shall be protected.
6. Within 60 days of the date of this approval, the applicant shall submit a revised Site Plan that illustrates that a minimum of 35 percent of the site will remain natural after construction, which depicts the specific areas which comprise the 35 percent area of the site to be protected following project completion and which demonstrates that the existing 5.1 acre natural area is included in the 35 percent portion of the site to be protected.
7. The proposed "Biofiltration Areas" or "Rain Gardens" shall be constructed in existing cleared areas and not made part of any area to remain natural or revegetated area that will be protected through the filing of a Declaration of Covenants and Restrictions.
8. No expansion beyond the NYSDEC Life of Mine permitted boundaries.
9. This resolution must be attached to any title or deed transfer when the site changes ownership to ensure the transfer of responsibilities to new owner(s) and notification requirements continue in accordance with this approval. The current owners, successors or assigns shall be responsible for compliance with this approval including completion of revegetation activity and protection thereof.
10. The owner shall obtain additional permits and approvals, as required by law, prior to commencement of the Project. Island Water Park must forward copies of such approvals

including, but not limited to the SCDHS approval, SPDES Permit, and any other applicable permits to the Commission Office two weeks prior to commencement of site work.

11. The findings in the December 21, 2011 CGA Hardship Waiver remain in effect.

12. This approval shall expire three (3) years from the date of this amendment.

**Resolved**, prior to any disturbance of the project site to implement the project, the applicant shall record in the Office of the Suffolk County Clerk and index against the property the following documents: the Declaration of Covenants and Restrictions, a copy of this amendment dated September 18, 2013, and a copy of the CGA Hardship Waiver resolution December 21, 2011, and submit proof of same by copy to the Commission.

**Record of Motion:**

Motion by: Mr. Walter

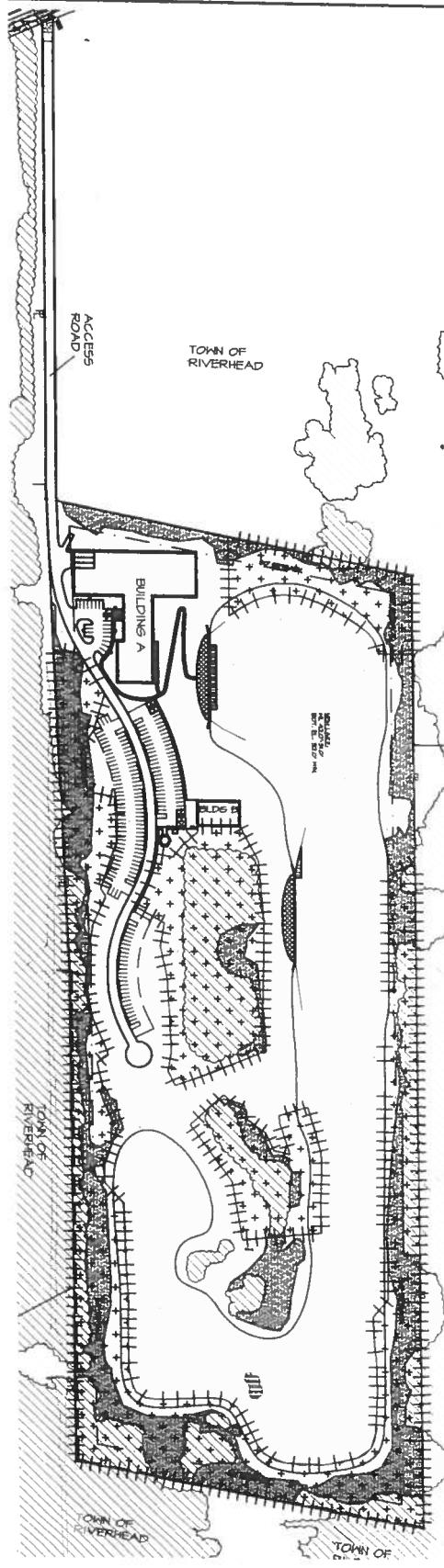
Seconded by: Ms. Throne-Holst

In Favor: 5

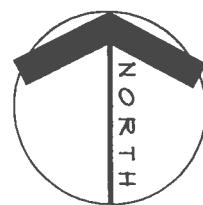
Opposed: 0

Abstention: 0

SCHEDULE "D"



|||| Conservation Easement Boundary



#### Conservation Easement Summary

392,133 SF (9.00 Acres)
59,043 SF (1.36 Acres)
124,465 SF (2.86 Acres)
63,166 SF (1.45 Acres)
638,807 SF (14.67 Acres) = 35% of Total Site to Remain Natural After Restoration (Conservation Easement)
Includes: 9.35 Acres of natural areas (undisturbed trees and uplands)

**NOTE:**  
This is a reduction of the "Island Water Park - Planting & Lighting Plan," SP-3, sheet 4 of 18. Dated: 8/15/2012, last revision date 12/9/2012, prepared by Cramer Consulting Group, 54 N. Country Rd., Miller Place, New York 11764. For additional detail that plan should be referred to.

# ISLAND WATER PARK Schedule D CALVERTON, NEW YORK

r=360'  
DECEMBER 9 2013



APR - 7 2014