



**Central Pine Barrens Joint Planning and Policy Commission
Special Meeting
Wednesday, December 7, 2022
Brookhaven Town Hall, Farmingville, NY**

**Final Resolution to Amend the Commission's Decision for the
Lewis Road Planned Residential Development
Assertion of Jurisdiction Application dated January 20, 2021**

Present:

Robert Calarco (State of New York),
Andrew Freleng (for the Suffolk County Executive),
Edward Romaine (Brookhaven Town Supervisor),
Richard Stafford (for the Riverhead Town Supervisor),
Janice Scherer (for the Southampton Town Supervisor)

Yvette Aguiar
Member

Steven Bellone
Member

Robert Calarco
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

Whereas, by DLV Quogue, LLC, DLV Quogue Owner LLC, DLV Parlato Parcel 1, LLC, DLV Parlato Parcel 2, LLC, DLV Parlato Parcel 3, LLC, DLV Parlato Parcel 4, LLC, and DLV Parlato Parcel 5, LLC, (hereinafter collectively referred to as "DLV") propose to develop the Lewis Road Planned Residential Development consisting of 118 seasonal residences, 12 year round workforce housing residences, an 18-hole private golf course, a sewage treatment plant, a clubhouse, recreational amenities, access road, ponds, drainage and other infrastructure on a 607.87 acre site, in the hamlet of East Quogue, in the Town of Southampton, as shown in the Master Plan Overlay dated October 4, 2022 and received by the Commission on November 8, 2022, prepared by Nelson & Pope (the "Project") and

Whereas, the Commission asserted jurisdiction over the Project and on January 20, 2021 determined that the Project conformed with the Standards and Guidelines contained in the Central Pine Barrens Comprehensive Land Use Plan (the "2021 Determination"), and

Whereas, DLV made changes to the Project and submitted a Site Plan and Final Subdivision Map containing the changes to the Town of Southampton Planning Board for review, and

Whereas, on August 17, 2022 the Planning Board referred the Site Plan and Final Subdivision Map reflecting the changes (the "Revised Proposal") to the Commission, and

Whereas, on September 7, 2022, DLV submitted additional information on the Revised Proposal to the Commission, and

Whereas, the Commission by letters dated September 21, 2022 and October 19, 2022, provided comments on the Revised Proposal to the Southampton Town Planning Department, and

Whereas, DLV, on November 8, 2022, provided information to the Commission in response to the Commission's comments, and

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Whereas, the Commission has reviewed the materials submitted for the Revised Proposal in order to determine whether it is consistent with the Commission's Decision, and

Whereas, the Revised Proposal modified the Project by:

1. Adding a new 2.5 acre access road called Eden Path to the Project, while reducing other areas of the Project by 0.58 resulting in a total site area of 610.37 acres (the "Project Site").
2. Developing Eden Path from Lewis Road on tax lot 900-288-1-64.001 in accordance with the easement between DLV and East Quogue Farms, LLC filed on December 15, 2021.
3. Increasing the Project's drainage capacity to manage a 3 inch rain event rather than a 2 inch event through the use of defined drainage shed areas as per the drainage plans dated November 7, 2022 prepared by Nelson & Pope sheets 1 through 37.
4. Reducing the total Project Site clearing authorized in the 2021 Determination by 0.18 acres, resulting in a total clearing of 171.75 acres as shown on the map titled "Central Pine Barrens Comprehensive Land Use Plan (CLUP) Compliance Exhibit" dated November 7, 2022 prepared by Nelson & Pope and received on November 8, 2022.
5. Designating 433.97 acres of the Project Site as Open Space to be protected as follows:
 - a. 203.33 acres of open space will be dedicated to the Town of Southampton.
 - b. 230.64 acres will be privately held in a Homeowner's Association.
6. Implementing the Construction Phasing Plan, prepared by PWGC and last dated November 3, 2022, or as amended and approved by the Town of Southampton, which identifies four construction zones as follows:
 - a. Activities in Construction Zone 1, in the southwest corner of the site are estimated to be completed by May 1, 2024.
 - b. Activities in Construction Zone 2, in the western portion of the site, are estimated to be completed by February 1, 2025.
 - c. Activities in Construction Zone 3, in the northeast corner of the site, are anticipated to commence on January 1, 2023 and end December 31, 2026.
 - d. Activities in Construction Zone 4, in the southeast corner of the site, are anticipated to commence on February 1, 2023 and end December 31, 2026.
 - e. Activities listed in each zone include tree felling and clearing operations that precede the construction of infrastructure including roadways and uses including housing and the golf course

Whereas, the Commission finds that the Project as modified by the Revised Proposal conforms with the Plan Standards and Guidelines as follows:

- a. the Project will conform with Article 6 of the Sanitary Code by its demonstration of residential yield of one single-family residence per acre in the Town's five acre zoning district and the Town Zoning Board decision on the golf course use; a tertiary treatment sewage treatment plant will be constructed for wastewater management generated by the Project; the Project will achieve a 0.26 mg/l nitrogen concentration when balanced over the entire project site, excluding background nitrogen concentrations, which is below the 2.5 ppm concentration limit as per the Guideline; permits will be obtained to comply with Article 12 of the Sanitary Code; NYSDEC irrigation well permits will be obtained, and
- b. stormwater will be recharged on site and prior to disturbance, approval of the SWPPP will occur to the satisfaction of the Town Engineer with a 3 inch drainage capacity; drainage reserve areas are delineated in the grading plan to demonstrate conformance with the Plan Guidelines; soil erosion will be controlled using stabilization measures and erosion control practices during construction and installation of silt fencing during all construction activity prior to commencement of disturbance; no retaining walls will be developed; and
- c. no wetlands are present on the Project Site; no soil exports are proposed and excavated material will be reused in the Project; the Project conforms with the vegetation clearance limit based on zoning as of 1995 and the maximum 15% maximum fertilizer dependent vegetation limit; the project will implement an Integrated Turf Health Management Plan for the controlled applications of pesticides and herbicides in the golf course and landscaped areas, and
- d. the Project is a cluster plan with unfragmented open space to the greatest extent practicable while considering factors including steep slope topography and utilizing previously cleared areas of the Project Site; native species will be used in the landscape plan and where possible transplanted plantings will be reused; the Project will adhere to measures required by the NYSDEC to protect state and federal listed species and habitat including the Threatened Northern Long-eared Bat; open space will be dedicated and also privately held by a Homeowner's Association for its protection in perpetuity and no additional density will be generated by the contiguous and noncontiguous open space property; and
- e. steep slope topography will be protected to the maximum extent practicable while achieving the cluster development; no cultural artifacts were identified in the archaeological survey; the Project will protect the character of the Pine Barrens and views of the Project Site by the design and installation of manmade structures that meet standards consistent with the character of the area including minimal signage that is limited in size and designed with colors and materials that reflect the local landscape and preserve roadside views, and
- f. in order to conform with Plan Guidelines to protect scenic features of the roadside and views, there will be no fencing other than split rail adjacent to open space and deer fencing only is permitted adjacent to existing development and upon the Commission's written approval, and

Whereas, the Revised Proposal does not materially alter the Project and no significant adverse environmental impacts will occur as a result of the Revised Proposal that require additional SEQRA review, and

Whereas, the Commission finds that Revised Proposal does not materially modify the Project and that the Project as modified by the Revised Proposal conforms with the Plan Standards and Guidelines as per the Decision, now, therefore, be it

Resolved, the foregoing recitals are incorporated herein, and be it further

Resolved, that Revised Proposal does not materially alter the Project and no significant adverse environmental impacts will occur as a result of the Revised Proposal which require additional SEQRA review, and be it further

Resolved, the 2021 Determination is incorporated by reference herein and its conditions remain in full force and effect, and DLV must fully satisfy all of the conditions contained therein, unless modified by this Determination, and be it further

Resolved, as a result of the Revised Proposal, DLV must satisfy the following additional conditions and as shown on the map titled “Central Pine Barrens Comprehensive Land Use Plan (CLUP) Compliance Exhibit” dated November 7, 2022 prepared by Nelson & Pope and received on November 8, 2022:

1. DLV must record legal instruments, approved by the Commission and granted to the Commission, prior to any site disturbance to ensure:
 - a. That the Project or the uses proposed therewith are not changed without the prior written approval of the Commission.
 - b. Only passive unpaved, hiking trails, may occur on the open space and no disturbance may occur unless the same is consistent with the recorded instruments.
 - c. Fertilizer-dependent vegetation is limited to no more than 91.18 acres of the Project Site in developed areas and uses including the golf course and landscaping.
 - d. The legal instruments must be indexed against all of the parcels in the Project Site.
 - e. There shall be no operations or uses constituting development pursuant ECL §57-0107, on, or in the open space.
 - f. There shall be no operations or uses not constituting development pursuant to ECL §57-0107 of, on or in the open space.
2. The 2021 Determination and this Determination must be filed in the Office of the Suffolk County Clerk against the Property.
3. Prior to commencing site disturbance DLV must provide to the Commission a map prepared by a surveyor or professional engineering licensed to practice in New York that demonstrates the clearing proposed on the Project Site and the map must contain the amounts of and identify the areas of existing and proposed clearing and open space.
4. Prior to any site disturbance, the Master Plan map dated October 4, 2022 must be revised to depict all areas of clearing, grading and open space. The revised map must be approved by the Commission staff before any site disturbance may occur.

5. Construction Phasing Plan
 - a. Certify by a professional engineer licensed to practice in New York the Construction Phasing Plan dated November 3, 2022 Sheets 1 through 6, prepared by P.W. Grosser Consulting Engineer & Hydrogeologist, P.C. to the Commission.
 - b. Implement the Construction Phasing Plan including tree felling and clearing in the sequence presented.
6. Temporary fencing
 - a. Record legal instruments prior to installing snow fencing on the clearing limits.
 - b. Once the snow fence is installed to identify the clearing limits, notify the Commission office for an inspection prior to site disturbance for construction.
 - c. Disturbance to install snow fencing on the clearing limits and if necessary, chain link fencing for security purposes, must be minimal and must occur within the Project clearing limits. No material alteration of grade or vegetation may occur to install the fencing.
 - d. If chain link fencing is necessary for security purposes during implementation of the construction phasing plan and it will be removed after construction is complete, by December 31, 2026, chain link fence may be installed on the construction limit and clearing boundaries and not on the outer limits of open space, which would prevent wildlife movement through the open space and is beyond the construction boundaries.
 - e. Maneuver around large trees where they intersect the clearing limit. Include large trees in the protection area where feasible when they intersect the clearing limit.
 - f. Remove all temporary fencing when construction is complete.
7. Permanent fencing:
 - a. Split rail fencing may be installed adjacent to open space on the north and east sides of the Project to allow for the uninterrupted passage of wildlife.
 - b. Deer fencing only may be installed immediately coterminous with improved areas, as necessary, upon a showing to the Commission of the necessity and upon a written approval of the Commission.
8. No regulated activity may occur outside of December 1 through February 28 absent NYSDEC approval which must also be provided to the Commission.
9. An ecologist must be on the Project Site during tree felling and clearing activity. The ecologist must have adequate staff to perform continuous wildlife sweeps to relocate wildlife to surrounding open space habitats during felling and clearing activities. Provide a summary report of this activity identifying the species encountered and relocation efforts after each construction phase when this activity occurs.
10. Proof, acceptable to the Commission, must be submitted of DLV's interest in all of the parcels in the Project Site.
11. Provide a certified copy of the recorded subdivision map.
12. Submit to the Commission a copy of the final signed and stamped subdivision map, the site plan and Town Southampton Planning Board decisions.
13. Cease construction if cultural artifacts are encountered. Notify the Town Supervisor's office and obtain authorization prior to recommencing construction activities.
14. Update the Groundwater Monitoring Plan Rev. 2 prepared by P.W. Grosser Consulting, Inc. dated March 2022 with the existing data on the Project including the

areas to be developed, cleared, open space, project description and related Project elements.

15. Submit an As Built Plan to the Commission at the end of each construction phase.
16. Submit an As Built Plan to the Commission at the end of construction of the entire Project and prior to issuance of Certificates of Occupancy.
17. The Subdivision Map titled "Overall Development Plan" dated November 7, 2022 prepared by Nelson and Pope Drawing C-102 Sheet No. 2 of 37, does not show all of the Project Site, which is a cluster plan. Either revise it to add all of the parcels in the cluster plan or add a second sheet to the map that reflects the non-contiguous cluster development including all other parcels utilized for the Project and not presently shown in the map.
18. Provide a map that identifies the emergency access and construction access locations if they are proposed.
19. The Commission must be granted enforcement authority under any instrument granted to a public corporation to protect open space on the Project Site.

Resolved, the terms of this Determination apply to DLV, its successors and assigns, and be it further

Resolved, the Project must conform to all other involved agency jurisdictions and permit requirements in effect on the project site, and be it further

Resolved, the expiration of the Commission's decision is Ten (10) years from the date first written above

Motion by: Ms. Scherer

Second by: Mr. Stafford

Vote:

Yes: 3 (Ms. Scherer, Mr. Stafford, Mr. Freleng)

No: 1 (Mr. Romaine)

Abstain: 1 (Mr. Calarco)