

Central Pine Barrens Joint Planning and Policy Commission
November 16, 2022
Adopted Decision to Approve
Expressway Drive North
Development of Regional Significance Compatible Growth Area Hardship Waiver
Yaphank, Town of Brookhaven, Suffolk County Tax Map Number 200-662-2-5.16

Present: Mr. Calarco, for the Governor of the State of New York
Mr. Freleng, for the Suffolk County Executive
Mr. Romaine, Brookhaven Town Supervisor
Ms. Aguiar, Riverhead Town Supervisor
Ms. Scherer, for the Southampton Town Supervisor

I. The Project, Application, and Project Site

WF Industrial XII, LLC c/o Wildflower Ltd LLC (the Applicant) owns a 71.45-acre unimproved parcel of land identified on the Suffolk County Tax Map as parcel 200-662-2-5.016 (the Project Site), in the Compatible Growth Area (CGA) of the Central Pine Barrens. The Project Site is located on the north side of the North Service Road of the Long Island Expressway (New York State Route 495, LIE), west of Sills Road, in Yaphank, in the Town of Brookhaven. The Project Site is in the L1 Industrial Zoning District.

The Applicant proposes to clear 41.15 acres (58%) of the Project Site and to develop three, one-story buildings and related amenities, including signage and lighting in the cleared areas. The buildings will contain 549,942 square feet (sf) of commercial/industrial uses in total. Under the proposal Building A will contain 203,548 sf of area, Building B will contain 176,670 sf of area, and Building C will contain 169,742 sf or area. If undertaken, the Applicant, will construct 767 parking spaces and landbank another 608 spaces allocated to be developed as needed to meet the town code parking requirements (the Project). The Slope Analysis Plan last dated October 18, 2022 prepared by Key Civil Engineering shows disturbance to slopes including 0.78 acres of slopes 10 to 15% grade and 0.20 acres of slopes greater than 15% grade. The development is depicted in the plan titled "Overall Site Plan" Drawing C-1 last dated October 14, 2022 prepared by Key Civil Engineering.

Other elements of the Project include lighting, signage, and retaining walls. The Applicant proposed installing 147 fixtures including 83 wall mounted fixtures and 64 poles. There are 60, 20-foot tall light poles and 4, 15-foot tall light poles. If lighting is installed, fixtures will be downward facing, shielded and dark skies compliant. The Applicant proposed installing one street sign on Expressway Drive North. The sign will be 6 feet tall and 7.8 feet wide with natural colors and materials and no interior illumination.

An area of 2,715 linear feet of retaining walls over 3 feet in height will be developed. The Applicant asserts that retaining walls were necessary in the Project as opposed to planted slopes to avoid a greater amount of disturbance, cut and fill.

The Project is a Development of Regional Significance (DRS) as defined Section 4.5.5.1 of the Central Pine Barrens Comprehensive Land Use Plan (the Plan) because it contains more than 300,000 square foot gross floor area for commercial/industrial development. As a DRS, the Applicant must demonstrate that the Project conforms with Standards and Guidelines outlined in Chapter 5 of the Plan.

The Project does not conform with Guideline 5.3.3.8.2 because construction occurs on 0.98 acres of slopes greater than 10% grade.

On September 2, 2022, the Applicant, through their agent, Charles Voorhis, of Nelson Pope & Voorhis and attorney J. Timothy Shea, of Certilman Balin, submitted a Development of Regional Significance (DRS) application and Compatible Growth Area (CGA) Hardship Exemption for the Project. to the Central Pine Barrens Joint Planning and Policy Commission (the Commission)

The Applicant seeks to have the Commission waive strict compliance with Guideline 5.3.3.8.2 to develop and remove 0.98 acres of steep slopes greater than 10% grade. The Guideline states construction “may be approved if technical review shows sufficient care has been taken in the design of stabilization measures, erosion control practices and structures so as to minimize negative environmental impacts.”

Public water will be supplied to the Project Site by a new water main extension that will be constructed from Sills Road on the North Service Road. The nearest public water supply well field is more than 1,500 feet away.

The Project Site is in Groundwater Management Zone III. An Innovative Alternative Onsite Wastewater Treatment System will be constructed as per the Sanitary Plan drawings dated October 14, 2022, prepared by Key Civil Engineering. A recharge basin will be constructed on the east side of the site to manage stormwater runoff and recharge to groundwater. A Stormwater Pollution Prevention Plan (SWPPP) will be completed prior to disturbance. The SWPPP is a requirement to manage stormwater and implement erosion controls during construction. Reinforcing silt fencing will be installed.

Natural areas on the Project Site will be protected when the Project is completed by split rail fencing or other barrier or installation to hinder access to them.

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.”

III. The Public Process, Testimony, and Supplemental Materials to the Application

The Application included a review of conformance with the Central Pine Barrens Comprehensive Land Use Plan Standards and Guidelines, copies of permit applications materials on stormwater requirements from the Town of Brookhaven and Cameron Engineering, the Suffolk County Department of Health Services notice, a letter from Control Point Associates on topographic surveying methods, a signage plan by Signarama, a draft conservation easement to protect open space,, a slope analysis, site plan drawings, previous development overlay, Brookhaven Industrial Development Agency tax deferral application, Stipulation of Settlement dated 2014, and hardship waiver petition.

On September 21, 2022, the Commission scheduled a public hearing on the Application. The hearing was held on October 19, 2022. At the hearing, a Commission Staff Report with Exhibits was introduced into the record. The Applicant, under sworn testimony, expressed they would address the concerns in the Staff Report and provide responses. No members of the public commented. The hearing was closed with the written comment period held open for seven days. No written comments were received. A stenographic transcript was made of the hearing and provided to Commission members.

On October 19, the Applicant submitted supplemental and revised materials including revisions that improve the site plan’s conformance with the Plan and support consistency with the character and the preservation of resources of the Central Pine Barrens. The improvements to protect the resource included consolidating the roadside buffer of open space which created a less fragmented natural area; modifying the single monument sign to reduce its size and design it to be consistent with the character of the pine barrens; reducing the extent of mowed grass to 4% of the site, utilizing a native grass seed mix and avoiding fertilizer dependent vegetation; and installing split rail fencing to protect the boundary of open space.

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

The Town of Brookhaven completed the State Environmental Quality Review Act (SEQRA) process on January 22, 2020 and reaffirmed the Negative Declaration for the Project on June 6, 2022.

The Project requires additional permits or approvals from other involved agencies including the New York State Department of Transportation (NYSDOT), Suffolk County Department of Health Services, New York State Department of Environmental Conservation, and the Town of Brookhaven.

V. History of the Project Site

Development on the Project Site is the result of the Stipulation of Settlement with the Town of Brookhaven in 2015 with the Applicant's predecessor in title, Silver Corporate Park, LLC. As a result of the Stipulation, the Town of Brookhaven acquired as natural open space 120 acres of the original 190 acres of property.

On June 17, 2020, the Commission issued an exemption to authorize a 12-lot subdivision with 12 separate buildings DRS proposed by Silver Corporate Park. This project a . Two buildings were proposed in the area where landbanked parking is currently proposed shown in the Application. Silver Corporate Park required a hardship exemption because its project did not conform with Guideline 5.3.3.8.2. Silver proposed to develop 18,948 square feet (0.43 acre) on steep slopes.

The Applicant's surveyor provided testimony on refinements on the topographical survey refinements that occurred since the Silver project was granted a waiver for construction on steep slopes. Through refining the surveying technique, the Applicant asserts the Project will disturb less area of steep slopes greater than 15% grade. The Application states the Silver project, if developed, would have disturbed 0.32 acres of slopes over 15% grade while the Project disturbs 0.2 acres of slopes over 15% grade. Therefore, the Project will disturb 0.15 acres less area of steep slopes over 15% grade than the Silver Corporate Park proposal.

In March 2022, the Applicant purchased the site from Silver Corporate Park LLC for \$44,000,000.

The Commission issued a Notice of Violation to SCP and WF Industrial XII, LLC on September 21, 2022 for unauthorized clearing. A settlement occurred through an Order on Consent executed on October 5, 2022.

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 one half mile from the site in all directions. The Study Area describes the land use pattern in the vicinity of the Project Site.

The natural pine barrens ecosystem on the Project Site is classified as a pitch pine-oak heath woodland ecological community. A maintained overhead electric utility right of way corridor subject to a LIPA Easement cuts through the site. An area of 1.56 acres, the disturbance that resulted in the Notice of Violation, was previously cleared for a road to install test borings.

Historical aerial photography from 1947 reveals the site has not been the subject of large-scale disturbance and presently remains as intact woodland habitat with a healthy dispersion of large pitch pine and oak trees, an understory of heath shrubs (e.g., huckleberry), natural leaf litter, and groundcover including spotted wintergreen and trailing arbutus, except for the present road clearing mentioned.

In the immediate vicinity of the site, the south side borders on the North Service Road of the LIE. The west side adjoins a composting facility, and the northern and eastern boundaries adjoin public land. The LIE bisects the Study Area in half and forms the southern boundary of the Central Pine Barrens in this area. The area south of the LIE is outside of the Central Pine Barrens, although it is in the Study Area, and is therefore out of the Commission's jurisdiction. However, this area contains non-residential uses consistent with the proposed land use.

North of the LIE, on the east side of the Study Area and east of Sills Road, is an area of land that was placed in the Core Preservation Area as a result of the 2014 expansion of the Central Pine Barrens area to further protect the Carmans River and its watershed. The undeveloped, wooded Map of Enchanted Forest west of the Project Site was subsequently protected by conservation easements through the Pine Barrens Credit Program.

The remainder of the Study Area is in the CGA. The north side of the Project Site adjoins natural open space owned by the Town. Residential land use development is located in the northerly portion of the Study Area. Adjoining the site to the west is a large agricultural/composting land use, beyond which are residentially developed communities.

The Project Site is located within one mile of documented non-winter location of Northern long-eared bat (*Myotis septentrionalis*, state and federally listed as threatened). (New York Natural Heritage Program correspondence dated September 28, 2022)

No archaeological and historic resources listed in or eligible for the New York State and National Registers of Historic Places will be impacted by the Project. (New York State Office of Parks, Recreation and Historic Preservation correspondence dated June 6, 2022).

VII. Development of Regional Significance Review and Plan Conformance

Summary

The Act authorizes the Commission, by majority vote, to waive strict compliance with the Plan upon finding that such waiver is necessary to alleviate a demonstrated hardship. Chapter 4 of the Plan outlines the review process for development that meets the thresholds constituting a DRS. The Commission's review is limited to compliance with the Standards and Guidelines set forth in Volume 1, Chapter 5 of the Plan. The Application demonstrates conformance with Standards and Guidelines except Guideline 5.3.3.8.2 The Applicant proposes to . Because the Project does not conform with this Guideline a hardship exemption is required if the Project is to proceed.

Standards and Guidelines that are Not Applicable

Not all Standards and Guidelines apply to the Project either because the Project does not include a facility or structure that will cause an impact, the resource is not present, or the activity is not occurring. Specifically, no sewage treatment plant is proposed (S5.3.3.1.2); freshwater wetland habitat is not present (S5.3.3.4.1); the site is not within the jurisdiction of the Wild, Scenic and Recreational Rivers Act (S5.3.3.4.3); no ponds are proposed (G5.3.3.5.3); the vegetation clearing limit is met (S5.3.3.6.1); open space is unfragmented to the maximum extent (S5.3.3.6.2); the Project maximizes the clustering technique (G5.3.3.9.2); no land dedications will occur therefore no receiving entity is identified, and covenants or easements will be recorded to protect natural areas (G5.3.3.9.3).

Standards and Guidelines to which the Project Conforms

A summary of the Project's conformance with Standards and Guidelines is provided including details where relevant and applicable to explain the conclusions related to conformity. It is noted where conformance is deferred to other agencies such as the Suffolk County Department of Health Services or NYSDEC who regulates protection of public health, groundwater and other natural resources. Since the proposed land use is commercial/industrial, the regulations that pertain to the management and storage of chemicals and hazardous materials and control of stormwater runoff to minimize water pollution may apply and the applicant would need to obtain the necessary agency permits or seek a hardship waiver(s).

The Project conforms with the Suffolk County Department of Health Standards (S5.3.3.1.1). The allowable flow is 21,435 gallons per day (gpd) and the Applicant proposes 21,997.70 gpd. The excess sanitary flow will be mitigated by the redemption of 1.88 Pine Barrens Credits. An On-Site Alternative Wastewater Treatment System will be installed (S5.3.3.1.1). Activities that require permits to conform with the Sanitary Code Articles 7 and 12 are subject to those regulations and approvals (S5.3.3.2.1).

The Project conforms with the Vegetation Clearance Limit (S 5.3.3.6.1). An area of 41.15 acres (58%) will be cleared where a maximum 65% is permitted in the Standard. The Project protects an additional 5 acres beyond the Plan requirement. An area of 29.83 acres will remain as natural open space (42%).

The Project creates unfragmented open space while simultaneously achieving protection of existing natural steep slope topography (S5.3.3.6.2). The Project will conform with the fertilizer-dependent vegetation limit (S 5.3.3.6.3). An estimated 4% of the site will be planted in a native grass and wildflower seed mix achieving near zero percent fertilizer dependent vegetation. Native plants will be used in landscaping (S 5.3.3.6.4). Restoration of 3,803 square feet of previously cleared area will also occur.

State and Federal listed Threatened species, Northern Long-eared Bat and its habitat will be protected by avoiding clearing from March through October and clearing only during December through February of any given year (S5.3.3.7.1).

In its September 28, 2022 correspondence, the New York Natural Heritage Program reported, “Within one mile of the project site is a documented non-winter location of Northern long-eared bat (*Myotis septentrionalis*, state and federally listed as threatened). The bats may travel 1.5 miles or more from documented locations. An impact of concern for bats is the removal of potential roost trees.” Consistent with DEC guidelines, the Applicant proposes to conduct its clearing activities during the annual clearing window between December 1 and February 28. To protect the NLEB habitat, no regulated clearing will occur on the Project Site from April 1 to October 31 of any given year.

Clustering is used to the maximum extent to connect open space to adjacent public lands to the east and north (G 5.3.3.9.2). Conservation easements will be filed to protect open space prior to site disturbance (G 5.3.3.9.3). No impact will occur on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places (New York State Historic Preservation Office correspondence dated June 6, 2022) (G5.3.3.11.1 and 11.2). Roadside character will be preserved in the 100-foot wide natural buffer on the Project Site except where two curb cuts are proposed to conform with public safety requirements due to the size of the buildings in the Project (G5.3.3.11.2 and 11.3). Signage was redesigned in the Signarama plan dated October 18, 2022 to be in keeping with the character of the Central Pine Barrens (G5.3.3.11.4).

The Project does not conform with Guideline 5.3.3.8.2 due to the development of 0.98 acres of steep slopes greater than 10% grade.

VIII. Commission Review of the Hardship Exemption Request

Pursuant to the Act, in determining whether to grant a CGA hardship exemption for the Project, the Commission must 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.

In considering the criteria set forth in Town Law §267-b(2)(b)(1), the Applicant asserts that the Project is the result of a Stipulation of Settlement between the Town of Brookhaven and the prior owner allowing the use and extent of development of the Project Site.

Reasonable return

The Silver Corporate Park proposal required a hardship to waive conformance with Guideline 5.3.3.8.2 for construction on steep slopes. The Project will disturb less area of steep slopes according to refinements in topography than Silver Corporate Park.

The Applicant asserts that the Project is not economically viable unless it is developed as proposed. The Application contains materials provided information on the need for tax abatements to make the Project feasible.

Uniqueness

In considering the criteria set forth in Town Law §267-b(2)(b)(2), the Commission finds that the hardship is unique due the Project Site's history resulting from the prior Stipulation. These circumstances and history are unique to this Applicant and Project and does not apply to a substantial portion of the neighborhood. The Project will disturb 58% of existing natural vegetation and habitat where 65% is allowed, resulting in less clearing and a greater amount of open space than the Plan requires. When the Project is complete, in addition to the 120 acres acquired by the Town as a result of the stipulation on 190 acres, the Project will preserve 29.83 acres bringing the total open space to 150 acres or 79% of the pre-Stipulation Project Site.

Natural open space connectivity is accomplished by situating open space on the northerly portions of the Project Site to be adjacent to the Town's open space. The layout protects terrestrial ecological communities and succeeds in connecting open space, which add to open space connectivity in the immediate area. Other parcels in the area, that are subject to development do not afford this same opportunity.

The clustering technique is maximized in the open space arrangement and building lot layout. The Application encourages compatible industrial development in the CGA to accommodate regional growth influences in an orderly way while protecting the pine barrens environment from the individual cumulative adverse impacts thereof. The roadside character of the CGA and views from the LIE are protected through the 100-foot wide natural buffer on the North Service Road.

Essential character

In considering the criteria set forth in Town Law §267-b(2)(b)(3), as it relates to character of the neighborhood, the Project is consistent with development in the Study Area. Although the Project Site is currently vacant and wooded, it lies on a major highway, the Long Island Expressway, and it is zoned for industrial use. The presence of the Stipulation and the prior approval of Silver Corporate Park proposal dictate the extent of development allowed on the Project Site.

The Project is consistent with large industrially developed sites in the Study Area that are outside of the Central Pine Barrens. The Project is clustered to the west to adjoin the developed site of a composting facility. The cluster configuration retains the steep slopes on the east side and connects to existing open space.

Where open space is adjacent, the cluster plan connects open space uses. The presence of the overhead utility corridor causes an intrusive developed element in the Project Site. The Project's industrial land use is consistent with the existing zoning district and permitted uses; no Town Board action is needed such as a change of zone that deviates from the Town Code. The Project is consistent with the existing character of the area, uses, and generally conforms to its surroundings and pattern of development and land uses. The Project will provide three warehouse buildings on an industrially zoned parcel that is well situated on a major highway. The Commission finds that the Project will not alter the essential character of the neighborhood.

Self-created

The presence of the Stipulation establishes the use and development of the site. The Applicant purchased the property with the SCP approval in place and the Project is similar in size to SCP. Except for modifications to the number of buildings, it is similar in terms of impact on vegetative clearing and steep slopes. The Applicant seeks to minimize disturbance to steep slopes and clear less than the Plan permits for the Project.

Pursuant to Town Law §267-b(2)(b)(4), the Commission finds that the hardship is not self-created. The Applicant asserts the Project is the result of a process that included the sale of a large portion of the original 192 acre site to the Town to preserve open space, leaving the balance to the Applicant to develop 72 acres and the Applicant's expectation to realize a financially viable Project. The Applicant and Town have achieved protection of 120 acres and reduced the scale of development significantly from the pre-Stipulation development plan to arrive at the Application. The Project is consistent with the current industrial zoning classification in effect since before the Act. Prior proposals required Town Board actions and resulted in greater development in size and scale than the Project.

IX. Conclusion

The Commission determines that the Project as depicted in the Slope Analysis Plan last dated October 18, 2022 prepared by Key Civil Engineering and the Overall Site Plan last dated October 14, 2022 prepared by Key Civil Engineering complies with Standards and Guidelines except for compliance with Guideline 5.3.3.8.2. The Commission finds that the Applicant has established an extraordinary hardship exists and therefore grants an extraordinary hardship exemption for the reasons set forth above. The Commission further imposes the following conditions on the Project.

1. General conditions

- a. 1.88 Pine Barrens Credits must be redeemed prior to site disturbance.
- b. Install an Innovative Alternative Onsite Wastewater Treatment System prior to issuance of Certificate of Occupancy.

2. Protection of natural vegetation and clearing

- a. Open space
 - i. 29.83 acres of natural open space of the Project Site must be protected
 - ii. Protect the 29.83 acres in a conservation easement that is recorded prior to clearing and ground disturbance activities.
 - iii. No disturbance may occur in the open space including staging or storing materials or excavated soil.
 - iv. Commission staff may inspect the open space easement area on an annual basis upon reasonable notice to the Applicant unless an emergency condition prevents the notice.

- v. Install and maintain in perpetuity split rail fencing, or other Commission approved installation, on the clearing limits/open space boundaries, excluding the landbanked parking area until such time as the landbanked parking is to be constructed.
- b. Clearing
 - i. No more than 41.15 acres of current natural area of the Project Site may be cleared.
 - ii. Clearing activities must be coordinated with NYSDEC to comply with Northern Long-eared Bat habitat protection. Clearing may only occur from the period of December 1 to February 28 in Suffolk County, unless otherwise directed by NYSDEC.
 - iii. No clearing shall occur until the Commission office has field inspected the clearing/conservation easement limits and issued written approval to the Applicant. Notify the Commission when all construction is completed on the Project Site.
- c. Conservation Easement
 - i. Prepare a draft conservation easement subject to Commission review and approval to protect 29.83 acres of the natural habitat as open space.
 - ii. No additional density or development may be generated by the open space area.
 - iii. Record instruments prior to ground disturbance activities and no later than within six months after this decision.
 - iv. Submit proof of recording to the Commission prior to ground disturbance activities.
- d. Prior to the commencement of ground disturbance activities on the Project Site, the Applicant must:
 - i. Install and maintain snow fencing along the clearing limits/natural area to protect the area to remain natural during construction.
 - ii. Notify the Commission office one week prior to disturbance to inspect the clearing limits.
- 3. Lighting. Install only dark skies compliant fixtures to minimize excess nighttime lighting and energy consumption.
- 4. Signage. Install the single monument sign illustrated in the plan prepared by Signarama dated October 18, 2022 stamp received on October 19, 2022.
- 5. Landscaping Plan
 - a. Approximately 4% of the site will be planted with a Commission approved native grass and wildflower seed mix and avoid the use of fertilizer dependent vegetation to near zero percentage. If this changes such as an increase in fertilizer dependent

- vegetation up the conforming maximum limit of 15%, the Applicant must submit the request to the Commission for review and consideration of this change.
- b. Landscaping must be composed of native species. Utilize Long Island genotypes where available.
6. Trees with a breast height diameter of 6 inches or greater along the edge of the areas to be cleared are to be maintained to the extent practicable by adjusting the clearing line.
 - a. Recommended landscaping activities that are encouraged but not required:
 - i. Transplanting existing plants including trees and shrubs where possible.
 - ii. Flag existing trees that will remain protected and kept in place during grading and construction.
 - iii. Where a tree intersects the clearing boundary, maneuver around the tree to keep it in place, when possible.
 - iv. Replace the creeping juniper with buttonbush or another native species.
 - v. Incorporate more native oak and other trees in the landscape design and retain existing native, large and flowering trees where possible.
 - vi. Avoid excess clearing and regrading such as on the western boundary and on the east side of the eastern ingress/egress.
 7. Restoration of Unauthorized Cleared Area
 - a. Restore 3,803 square feet of previously disturbed area with native oak and pitch pine trees on the road frontage, as shown in the Overall Site Plan and the Landscape Plan drawings C-10, C-11 and C-12 last dated October 14, 2022 prepared by Key Civil Engineering.
 - b. Landscaping with native plants including shrubs and trees, evergreen and deciduous, will occur within the site. Seeded lawn areas will be planted with an Ernst showy northeast native wildflower and grass seed mix and/or red fescue.
 8. Stormwater Pollution Prevention Plan. Complete requirements for the SWPPP and submit proof of approval or permit prior to ground disturbance activity.
 9. If construction phases are proposed, submit a phasing plan, subject to review and approval.
 10. This approval shall expire five (5) years from the date of this Resolution.
 11. Any changes to the Project, as approved, must be reviewed and approved by the Commission.
 12. Any changes on the Project Site such as an application that changes the use, zone, new ownership that changes the Project or other elements that cause non-ministerial changes are subject to Commission review and decision.

13. Consult with the Commission staff prior to commencing activity on site related to disturbance to any vegetation. Surveying activity that does not require material disturbance to vegetation is excluded from consultation

Failure by the Applicant or its successors or assigns to fully comply with the foregoing conditions will constitute a violation of this decision.

Motion to Approve November 16, 2022
Expressway Drive North Compatible Growth Area Development of Regional Significance and
Hardship Waiver

Date: November 16, 2022

Motion By: Mr. Romaine

Seconded: Mr. Freleng

Vote:

Yes: 5

No: 0

Abstain: 0

Absent: 0

Copies of This Decision Will be Sent To:

New York State Department of Environmental Conservation, Division of Environmental
Permits, Region 1
New York State Department of Transportation
Suffolk County Planning Commission
Suffolk County Department of Health Services
Suffolk County Department of Public Works
Suffolk County Sewer Agency
Suffolk County Water Authority
Town of Brookhaven Supervisor
Town of Brookhaven Town Clerk
Town of Brookhaven Town Board
Town of Brookhaven Board of Zoning Appeals
Town of Brookhaven Planning Environment and Land Management (PELM)
Town of Brookhaven Building Department
Town of Brookhaven Parks and Recreation Department
Applicant/Attorney

