

**State Environmental Quality Review Act
ENVIRONMENTAL IMPACT STATEMENT
INVOLVED AGENCY -FINDINGS STATEMENT**

Lewis Road Planned Residential Development (PRD)

Involved Agency: Planning Board of Town of Southampton
116 Hampton Road
Southampton, New York 11968

Applicant: DLV Quogue, LLC
14605 North 73rd Street
Scottsdale, Arizona 85260

I. Introduction and Project Background & History

1. Introduction

This document is the Statement of Findings which compiles an environmental review of the Preliminary Subdivision and Site Plan applications by DLV Quogue, LLC (“Applicant”) to the Town of Southampton Planning Board (the “Planning Board”) for a Proposed Project known as “Lewis Road Planned Residential Development (PRD)” (the “Project”). The Proposed Project site is located in the hamlet of East Quogue, Town of Southampton, Suffolk County, New York, and is comprised of over 175 tax lots set on four parcels totaling 588.39 acres. The Preliminary Subdivision and the Site Plan applications require discretionary administrative approvals and, as a Type I Action, was and is subject to the requirements of the State Environmental Quality Review Act (SEQRA).

The total area of the parcel is 588.39 acres. Development is proposed within 160.81 acres and 427.58 acres will be permanently preserved as open space. The Lewis Road PRD Project will be developed as a resort use comprised of 118 seasonally-occupied housing units (which will be subject to a seasonal-occupancy covenant) plus 12 full time use, affordable residential units, an 88-acre private golf course (as a recreational amenity for resident use) and a clubhouse area containing four separate structures providing a total of 66,393 square feet (SF) of space, as: 22,175 SF of homeowners association (HOA) member facilities, a pool and pool house, maintenance/mechanical/storage areas (6,918 SF), below-grade parking (19,000 SF), and 18,300 SF in the 8 clubhouse condominiums. These units will have between 2,150 to 2,400 SF of floor area (averaging 2,288 SF), and have three bedrooms. The clubhouse area and recreation facilities will not be available for public use; its facilities will be reserved for the use of the residents of the subdivision. Wastewater will be handled in a new, tertiary sewage treatment plant (STP).

The Lewis Road PRD will also include infrastructure improvements such as a private access road that will traverse a separate parcel and connect with Lewis Road, internal private roads, stormwater management and other infrastructure improvements, and accessory structures and facilities related to project operations (e.g., groundwater pumping wells, operational and maintenance structures for the golf course). Outside of the proposed development area, the Proposed Lewis Road PRD

will provide approximately 382.45 acres (65% of the site) of preserved open space and public trails.

The Town Board completed a State Environmental Quality Review Act (“SEQRA”) review of a Mixed Use Planned Development District (“MUPDD”) project known as The Hills at Southampton. The Hills MUPDD was near identical to the Lewis Road PRD in terms of the type, design and yield of development; however, the golf course and recreation facilities would have been open to all members of the public eligible to join as compared with the resident recreational amenity golf course that is proposed with the Lewis Road PRD. The Town Board completed an Environmental Impact Statement (“EIS”) process for The Hills and the Town of Southampton Planning Board was an involved agency in this review. The Town Board voted to approve a Statement of Findings for The Hills MUPDD and to approve the PDD Local Law, resulting in a 3 to 2 vote in favor of the Findings and PDD Local Law. The Findings were therefore adopted; however, the PDD Local Law at that time required a majority plus one vote, and as a result, the PDD application was not adopted. The Lewis Road PRD subdivision and site plan was submitted to the Planning Board under current CR-200 zoning, and is the subject of these Findings of the Planning Board.

The Planning Board completed a detailed review of the proposed preliminary subdivision and site plan including an assessment of changes in the Proposed Project and if any such changes rose to a level that would require a Supplemental EIS. On June 27, 2019, the Planning Board determined that no Supplemental EIS was required. These Findings rely on the EIS record including review of the SEQRA Compliance Analysis dated December 2018, Town Staff, Consultant and Applicant input, and Planning Board deliberation.

2. Project Background & History

The Lewis Road PRD subdivision application is a logical outcome of the development application review process that started with a subdivision application in 2005. The subdivision application was later revised after the Town’s adoption of the East Quogue Land Use Plan and Generic Environmental Impact Statement (“East Quogue GEIS”) in 2008. The East Quogue GEIS adopted the previous recommendations of the Western Town GEIS and specifically recommended that the property be developed as a seasonal resort with a golf course. At the direction of the Town, the applicant then filed the Hills at Southampton PDD Pre-Application submission to the Southampton Town Board, in June 2013. The PDD legislation at §330-243 contemplates a two-stage review process with the Town Board acting a preliminary development concept and the Planning Board approval of a subdivision map and/or site plan. The Town Board in 2015 coordinated with involved agencies (including the Town Planning Board) and upon no objections from Involved Agencies, assumed Lead Agency status for the environmental review process.

The Draft Environmental Impact Statement (“DEIS”) for the Hills PDD was initially submitted to the Town Board as lead agency under SEQRA in December 2015, and after a series of Town reviews and Applicant revisions and resubmissions, the DEIS was accepted as complete by the Town on October 12, 2016. Upon acceptance, the public review period commenced and the Town Board scheduled the 1st DEIS public hearing on November 7, 2016. On November 7, the Town

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Board also determined that additional public hearings and an extended public comment period on the DEIS were appropriate. The additional public hearings were held on December 5, 2016, January 10, 2017, and February 7, 2017. The Town Board also accepted all written comments on the DEIS through April 1, 2017. A review letter summarizing on the proposed application was also received from the Town's environmental consultant on May 15, 2017.

Acceptance of the Final Environmental Impact Statement ("FEIS") for the Hills PDD by the Town Board indicated that all of the public and agency comments on the DEIS had been sufficiently addressed by the lead agency such that a Findings Statement could be prepared for the Town Board to complete the SEQRA process. The Planning Board participated in the review of the DEIS/FEIS and provided comments on the proposed PDD Local Law (see resolution dated October 26, 2017). The Town Board issued its Statement of Findings to Approve on November 27, 2017, and voted on the PDD application. It is noteworthy that the Findings supported approval of the Hills PDD and were adopted by the Town Board by a vote of 3 to 2. The Town Board vote on the PDD was 3 to 2 in favor of approval but, under Town Code Section 330-244 I (3), a "supermajority" of 4 "aye" votes was required for approval of a PDD at that time, so the Hills PDD application was not approved.

Subsequently, the Applicant submitted a subdivision Pre-Application to the Planning Board, for a development type, design and yield that had been included as an alternative and evaluated in the Hills PDD draft and Final EIS's (for comparison purposes), for a PRD based on retention of and conformance to the CR-200 zoning district. The Pre-Application for the Lewis Road PRD subdivision was submitted to the Town Planning Board in October 2017, and was subject of review by the Town Planning Department and the Pre-Application Report was adopted on May 24, 2018.

As the Lewis Road PRD subdivision application included a private golf course recreational amenity, the Planning Board, in its Subdivision Pre-Application Report, noted that Town Code §330-5 defines an accessory use as a subordinate use customarily incidental to and located on the same lot occupied by the main use. The Planning Board noted that neither the Zoning Code §330-5 nor the Residence Table of Use Regulations (§330-10) lists every permitted accessory use, building or structure allowed in the CR-200 Zoning District, nor does the Town Code define a golf course. The Planning Board concluded that an analysis must be made on a case-by-case basis to determine whether a proposed private golf course recreational amenity is allowed as an accessory use. The Planning Board requested an interpretation from the Town Building Inspector, who then posed the question to the Zoning Board of Appeals, as to whether the proposed private 18-hole golf course recreational amenity would be permitted as an accessory use to the applicant's proposed 118-home residential subdivision and would not constitute a second principal use. The precise question posed to the Building Inspector and ZBA by the Planning Board set forth in the Planning Board's Subdivision Pre-Application Report was as follows:

Is applicant's proposed 18-hole golf course, available only to the owners of the subdivision parcels and not to the public at-large, customary and accessory to the 118-home residential subdivision located on 591 acres, or does said golf course – together with the maintenance and operating buildings and structures that accompany said golf course – constitute a second principal use?

The Zoning Board of Appeals by decision dated November 15, 2018 found that the proposed private golf course, available only to the owners of the subdivision parcels and not to the public

at-large, together with maintenance and operating buildings and structures that accompany said golf course are accessory to the proposed residential subdivision.

The Applicant submitted a Preliminary Subdivision application on November 1, 2018 with additional information on December 7, 2018 and December 12, 2018. As requested by the Planning Department, the Applicant submitted a Site Plan application on December 10, 2018. The Applicant also submitted a SEQRA Findings Compliance Analysis prepared by the Nelson, Pope & Voorhis, LLC (“NPV”) which contains a summary of the project with environmental analyses of the changes from the Hills PDD application versus the Lewis Road PRD application. The Compliance Analysis includes additional technical information and analysis regarding impacts and mitigation for geologic, water (especially groundwater and nitrogen inputs), ecological, transportation, land use, zoning and community resources. It also provided additional information on compliance of the project with Town Zoning regulations and those of the Central Pine Barrens Commission (“CPBC”). In January 2019, the Planning Board retained consultants B. Laing Associates, Inc. and Kimley-Horn of NY, P.C. (“BLG-KHN”) to review the Preliminary Subdivision application in light of the prior DEIS/FEIS and SEQRA record and the Applicant’s Preliminary Subdivision submission including the SEQRA Compliance Analysis to determine if a Supplemental EIS (“SEIS”) pursuant to 6 NYCRR §617.9(a)(70), SEQRA was required to review the Preliminary Lewis Road Subdivision application .

On April 15, 2019, the Planning Board, received a report from BLG-KHN, which posed a series of questions to the Applicant entitled, “Initial SEQRA – SEIS Threshold Review, Analysis and Inquiries.” The Applicant through NPV submitted a response dated May 7, 2019 with additional information supplementing the SEQRA Compliance Analysis, and letter from Sive, Paget and Riesel, PC (“SPR”), attorneys for the Applicant, dated May 9, 2019. The Applicant’s report included additional information and analyses on environmental impacts and mitigation including traffic, SONIR nitrogen loadings, etc. Based upon the entire record to that date, BLG-KHN then produced a final SEQRA – SEIS Threshold Review – Analysis dated June 27, 2019. The June 27, 2019 BLG-KHN report recommends, and the Planning Board adopted, that no SEIS be required of the Applicant but that further information was determined to be necessary for the Planning Board to make its determination on the Preliminary Lewis Road PRD Subdivision and/or Site Plan applications. Upon acceptance of the June 27, 2019 report, the public review period commenced and the Planning Board scheduled a public hearing on July 17, 2019. The public hearing was adjourned and extended to August 8, 2019. The Planning Board closed the public hearing on August 8, 2019 and extended the time to receive written comments from the public through August 19, 2019.

In response to comments raised by the public and advisory agencies, the on September 23, 2019, SPR issued a further letter regarding SEQRA procedures and appended an NPV document entitled “Supplemental Information in Response to: SEQRA – SEIS Threshold Review – Analysis For the Planning Board of the Town of Southampton DLV Quogue, LLC – Lewis Road PRD Prepared by: B. Laing Associates/Kimley Horn Dated: June 27, 2019,” and dated September 23, 2019 which addressed the information requested in the June 27, 2019 BLG-KHN review.

In May 2019, the Central Pine Barrens Joint Planning & Policy Commission (“CPBC”) re-asserted jurisdiction over the Lewis Road PRD by extension of a prior assertion of jurisdiction over The

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Hills MUPDD dated February 25, 2015. As a result, upon approval of the Preliminary Subdivision and Site Plan applications by the Planning Board, the Lewis Road PRD will be subject to review by the CPBC. In May 2019 and July 2019, the Planning Board referred the application materials to the CPBC and requested advisory input from the CPBC. By letter dated September 20, 2019, the CPBC advised that they could not produce an advisory report until their meeting on October 16, 2019 and asked the Planning Board to request an extension of the action deadline on the Preliminary application. On October 16, 2019, the CPBC adopted by a 4-1 vote (Town of Southampton voted no) an advisory report prepared by CPBC staff. At the CPBC meeting of October 16, 2019, the Town Planning and Development Administrator provided on the record, a review of the CPBC staff prepared draft letter, which preceded the meeting of October 16, 2019. This Town document was provided in the record to address the CPBC's staff comments on the SEQRA process in relation to the conformance of the Lewis Road PRD with the Standards and Guidelines of the CPB CLUP as will be discussed in a section of these Findings. The CPBC has been an Involved Agency throughout the SEQRA process, and since 2009, has been party to eleven (11) communications regarding the project, noted as follows:

1. February 11, 2009, comments to the Town of Southampton ("TOS") in response to the Hills at Southampton Draft Scoping Document.
2. September 6, 2013, comments to the TOS in response to the Hills at Southampton Pre-App submission.
3. March 9, 2015, communication to the TOS Clerk stating that the Hills at Southampton will need to make an application to the CPBC due to the expectation that the development would be including development in the CRA.
4. March 30, 2015, to TOS asserting jurisdiction as there is property in the assemblage in the CRA.
5. May 11, 2015, Draft Scope DEIS referral to TOS asserting jurisdiction as the property includes land in the CRA.
6. November 16, 2015, DEIS referral response to TOS.
7. March 1, 2018, requested additional information from the TOS about Lewis Road PRD.
8. March 27, 2019, request to TOS for response to March 1, 2018 letter to the TOS.
9. May 15, 2019, resolution of reassertion of jurisdiction over Lewis Road PRD.
10. June 19, 2019, resolution confirmation of May 15, 2019 resolution.
11. October 16, 2019, referral comments to TOS regarding Lewis Road PRD preliminary subdivision application.

As noted, the Southampton Planning Board was included as an Involved Agency as part of the Town of Southampton Town Board SEQRA process including the preparation of the DEIS and FEIS. The Planning Board has reviewed the record before them including but not limited to the DEIS and FEIS, the Preliminary Subdivision and Site Plan applications, the applicant's SEQRA Compliance Analysis, public and advisory agency comments, Town consultants' recommendations, the applicant's responses to comments, and Town Board Statement of SEQRA Findings, and hereby issues its own Findings Statement as required by SEQRA. This Statement of Findings by the Planning Board is a final step in the SEQRA process for the Preliminary Lewis Road PRD Subdivision and Site Plan application as outlined in Title 6 of the New York Code of Rules and Regulations (6 NYCRR) Part 617, with statutory authority and enabling legislation under Article 8 of the NYS Environmental Conservation Law ("ECL").

The project was referred to the Suffolk County Planning Commission. On October 2, 2019, the Suffolk County Planning Commission provided a response as follows: “The Suffolk County Planning Commission after due study and deliberation, was unable to render a determination on the merits of the referral as the necessary votes were unavailable to carry a resolution relative thereto.”

II. Findings

1. Geological Resources

- (i) *To the extent feasible, the existing topography of the Project site will be preserved or followed in developing the site plan.*

The configuration of the site grading program for the proposed Lewis Road PRD is expected to conform closely to that of the Hills PDD. The detailed design of the PRD provides 65% open space outside of the development area (with natural areas retained within the development area as well). Based on the limits of clearing for grading, the overall retention of existing natural vegetation remains the same at 72% of the overall site. Thus, any impacts to the site’s topography from the proposed project would be similar to those associated with the Hills PDD, which were reviewed by the Town Board and deemed to not be significant. Therefore, it is expected that the potential impacts to topography from the proposed project would likewise not be significant.

- (ii) *Prior to any soil disturbance, the erosion and sediment control measures required in an approved Storm Water Pollution Prevention Plan (SWPPP) will be installed. This would prevent any significant adverse soil erosion and sedimentation impacts during construction.*

Like the Hills PDD, a SWPPP will be prepared, approved and implemented prior to the onset of construction of the Lewis Road PRD. The SWPPP will ensure that there are no significant adverse soil erosion and/or sedimentation impacts during construction.

- (iii) *Some development will occur within all of the various soil types present on the Project site, as described in the DEIS. Soils exhibiting limitations related to sandy surface layer consist of types CpA, CpC, CpE, CuB, P1A, P1B and P1C which comprise approximately 73% of the subject property. The limitation of a sandy surface layer is not expected to be an impediment to locating roads, parking, buildings or related infrastructure.*

As noted above, the configuration of the site-grading program for the proposed project conforms closely to that of the Hills PDD. The detailed design of the PRD provides 65% open space outside the development area while retaining 72% of the existing natural vegetation on the site. The PRD involves the same soil types. As a result, any impacts to the site’s soils would be similar to those associated with the Hills PDD, which were previously reviewed by the Town Board and deemed to not be significant. In this case, the limitation of a sandy surface layer is not expected to be an impediment to locating roads, parking, buildings or related infrastructure and no significant adverse impact is anticipated.

- (iv) *Soils exhibiting limitations related to slopes consist of CpC, CpE, HaB, P1B, P1C and RdB soils which comprise 52.9% of the Project site. The limitation of slopes may affect the installation of sewage disposal fields, home sites, streets and parking lots as well as the establishment of*

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landscape vegetation related to concerns of providing stable surface areas to properly control erosion and drainage. Impediments with respect to a sandy surface layer will be managed through soil preparation for the intended use. The Project site master plan has been designed to take slope constraints into consideration- roads have been placed in low slope areas and home sites are planned in areas with construction areas of flatter surfaces. Planned grading of strategic locations of the site will be necessary to provide appropriate and stable surface areas to allow development of the proposed Project.

As noted above, the configuration of the site grading programs for the Hills PDD and the Lewis Road PRD are similar, so that it is expected that the potential impacts of each proposal from soils having characteristics of concern (e.g., slopes and a sandy surface layer) would be similar as well. The potential impacts and constraints due to soil limitations were reviewed by the Town Board for the Hills PDD project, and were deemed to not be significant. Therefore, it is expected that the potential impacts from soil limitations upon the proposed project would likewise not be significant as the proposed project incorporates planned grading of strategic locations of the site to allow development.

- (v) *Establishment of fertilized turf and landscaped areas is limited to 15% of the Project site which is compliant with the Town's Aquifer Protection Overlay District (APOD) Standards.*

The proposed Lewis Road PRD will result in a fertilized acreage of no more than 15% of the site, a figure that duplicates and closely follows the pattern of that for the Hills PDD. As such, there would be no difference between the two projects in potential impacts from fertilized acreage. The potential, over all impacts associated with landscape fertilization were reviewed by the Town Board for the Hills PDD project, and were deemed to not be significant. The Integrated Turf Health Management Plan (ITHMP) and associated monitoring will ensure that the project will conform to the 15% limitation.

- (vi) *Soils will be amended to establish healthy growing conditions and nutrient and water retention properties needed to support the limited areas of landscaping. In the case of the proposed Project, this may potentially affect lawns, ornamental shrubs and golf course turf grasses. The potential impacts related to this limitation with respect to erosion potential and re-vegetation will be addressed by using proper grading techniques and erosion control measures, installing proper drainage and using suitably adapted drought tolerant indigenous vegetative species for landscaping as well as site stabilization and restoration.*

The proposed Lewis Road PRD will utilize a soil amendment program within the ITHMP that will follow that of the Hills PDD proposal, which was reviewed by the Town. As a result, it is expected that there would be no significant differences in potential impacts between these two proposals. The potential impacts associated with soil amendment will be overcome by using proper grading techniques and erosion control measures, installing proper drainage and using suitably adapted drought tolerant indigenous vegetative species for landscaping, site stabilization and restoration. As a result, these impacts were reviewed by the Town Board for the Hills PDD project, and were deemed to not be significant. Therefore, it is expected that the potential impacts for the proposed project would likewise not be significant.

- (vii) *STP facilities will be placed in good leaching soil and design will ensure adequate depth to water below leaching structures given the observed and published soil characteristics and the depth to*

groundwater. Project review will require test holes during Town site plan review and SCDHS review for locating the STP. Though not expected, if unsuitable material is encountered, it will be removed and replaced with good leaching material to ensure proper functioning of STP leaching areas as well as for stormwater catchment.

The STP for the Lewis Road PRD will be sited in the same location as was proposed for the Hills PDD, where soils having proper leaching characteristics are present and adequate separation between the leaching facilities and the water table are found. Further, this facility will be subject to full and detailed engineering review and approval by the SCDPW and the SCDHS. The potential impacts associated with the STP for the Hills PDD were reviewed by the Town Board, and were deemed to not be significant. Therefore, it is expected that the potential impacts for the proposed Lewis Road PRD project would likewise not be significant.

- (viii) *Consistent with the requirements of the Central Pine Barrens Comprehensive Land Use Plan (CLUP), natural recharge areas and/or drainage system designs will be employed as part of the Project site plan design.*

As was determined for the Hills PDD, the natural topography of the site is considered in the design of the site's drainage systems, although, there are no natural recharge areas that could be incorporated into the drainage system to meet all of the storage requirements of the Town. As a result, the design includes a combination of catch basins, drainage swales, detention ponds/areas and leaching pools in order to meet Town requirements for site drainage. The proposed project is very similar to what was proposed for The Hills PDD in terms of drainage system design. Therefore, like the Hills PDD, this potential impact was considered and no significant adverse impacts were identified.

2. Water Resources

The Planning Board accepts the Town Board's November 27, 2017 Findings as they relate to items (iii), (vii), (viii), (ix) and (xiii).

In reviewing the project as a PRD, the Planning Board extensively reviewed the prior D/FEIS record created by the Town Board for the MUPDD proposed zoning change in relation to the Subdivision and Site Plans applications as a PRD. On April 15 and June 27, 2019 reports by B. Laing Associates, Inc. and Kimley-Horn of NY, P.C., the Planning Board asked the applicant a series of questions/informational requests. Such further information and the reason for requesting such information and analyses is as follows:

- A. A more conservative nitrogen loading (SONIR) calculation at 20% leaching for unlined areas and 180 days of unit occupancy. This change in the SONIR Loading Comparisons approximately doubled the nitrogen load to be carried to the aquifer in percolating waters. That is, this increases the calculated, total mass balance concentration in groundwater recharge from 0.33 mg/l in the Applicant's SEQRA Supplement (1,238 lbs N/year) to 0.59 mg/l in the BLG_KHN June 27, 2019 report (2,200.68 lbs/year). The BLG-KHN conclusion was supported by Dr. C Gobler August 2017 report (2,300 – and up- lbs/year), Paul W. Grosser, Table 2, Page 5, DEIS Appendix L-5 (2,100 lbs/year) and FPM Group Figure 1, FEIS Appendix J-3 (2,326 lbs/year). The revised analysis would be a refinement of the data and analyses contained in the D/FEIS record.

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A revised "application" of the nitrogen load to only developed/fertilized portions of the site This change would again increase the SONIR-calculated nitrogen load as it will be applied in the PRD scenario on a much smaller portion of the 591 acre site than assumed by applying a gross, mass balance equation. That is, the nitrogen load will be applied only over the developed portions of the property. In this case, the developed and landscaped portion can be considered to range between 120 and 140 acres¹. This multiple ranges from 4.2 to 4.9². When considered only within the acreage actually fertilized, the nitrogen concentration in recharge would then range from 2.48 to 2.89 mg/l in specific locations on site. Further, the margin of precision for the SONIR nitrogen loading analyses as provided in the May 7, 2019 SEQRA Supplement report by the applicant (item 7 on page 8) is 100 %. If this precision has declined on the upper boundary to even 50 % and a result of BLG adjustments, the upper, predictive boundary of the SONIR nitrogen loadings and the resulting nitrogen concentrations as the recharging groundwater enters the aquifer could be even higher in specific locations on site. If calculated in this revised manner, the concentrations of nitrogen in groundwater as it "arrives" at the aquifers' "surface" is well above the 2.5 mg/l CPBC guidelines. The revised analysis would be a refinement of the data and analyses contained in the D/FEIS record.

B. A dispersion model of the nitrogen load as it enters the aquifer. There are a number of physical and dispersive groundwater aquifer models which are regularly used and could be applied in this case. In fact, a suitable physical model has already been run for the project and its surroundings by P.W. Grosser Consulting, Inc. for a proposed mitigating measure of the project to describe flow patterns in this localized aquifer as presented in FEIS Appendix L-5 (as an update to DEIS Appendix A-12). The analysis was completed using Groundwater Vistas Version 6.78 by Environmental Simulations, Inc. However, the Groundwater Vistas model was applied to the potential for fertigation (i.e., extraction of nitrogen-contaminated groundwater which already occurs in the aquifer due largely to farming practices). However, it was not applied to potential project impacts to groundwater from the project. Groundwater Vistas was/is a physical model of the local (sub-regional) aquifer. The same approach can be used for water quality "impact" determinations. Ideally, this type of modeling should be conducted for the PRD Site Plan with the adjusted nitrogen loadings as applied in the actual developed acreage. This would determine the nitrogen concentration more precisely as it enters the aquifer and proceeds downgradient. In this way, location-specific, expected nitrogen concentrations in the aquifer can be determined with precision at varying depths at the eastern property line, at an established "grace limit" (see below), at the Parlato parcel, at single use wells down gradient (if any), and at Weesuck Creek (i.e., entering Shinnecock Bay). These data would further allow for adjustments in the proposed mitigation (fertigation) well numbers and locations. The revised analysis would be a refinement of the data and analyses contained in the D/FEIS record.

With the above reasons for providing/requiring adjusted and refined analyses and since such have not been provided to date by the applicant, the Planning Board must modify the Town Board's conclusions and Findings as follows (the original Town Board Findings organization has been retained to facilitate comparisons):

¹ Per SEQRA Supplement Table 2-1b and Attachment 1-2, 102.2 acres developed and 139.97 acres cleared.

² See **SEQRA – SEIS Threshold Review - Analysis for the Planning Board of the Town of Southampton DLV Quogue, LLC – Lewis Road PRD**, June 27, 2019, Sections 4,1 and 4,3.

- (i) *The Proposed Project site is located in Groundwater Management Zone III, and ultimately the groundwater in this subwatershed flows into Weesuck Creek and Western Shinnecock Bay. Of particular concern is nitrogen loading, which is responsible for the decline in surface water quality as evidenced by algal blooms which cause an increase in brown and red tides, reduced levels of shellfish and other habitat impacts. The proposed project complies the policies and plans for this area that are designed to protect water resources including the Town APOD, the Central Suffolk Special Groundwater Protection Area (SGPA), and the CLUP.*
- a. The APOD imposes limits on the disturbance of natural vegetation and in this case, 71.77% of the existing natural vegetation must be left undisturbed, it also restricts fertilized vegetation to 15%.*
 - b. The goals and objectives of the CLUP will be met for the Compatible Growth Area, namely:
 - i. preserve natural vegetation in large, unbroken blocks (86.92 acres and 101.91 acres);*
 - ii. there will be no significant discharges within 200 ft. of any public supply well.**

The above establishes that the Hills PDD would conform to the standards and requirements of the APOD and the CLUP, ensuring that minimal potential for impacts to either groundwater or surface water quality would result. The proposed Lewis Road PRD is similar in layout, uses and yield as the Hills PDD, and will include a tertiary STP, the same overall landscape fertilization characteristics, and similar natural vegetation retention, so that the potential impacts of the proposed Lewis Road PRD project would be similar to those of the Hills PDD. The potential groundwater impacts associated with the Hills PDD were reviewed by the Town Board, and were deemed to not be significant as reflected in the Findings Statement, which is based on the EIS record for the project. The Lewis Road PRD will ensure protection of 72% of the site in existing natural vegetation and will limit fertilizer dependent vegetation to not more than 15% of the site, or 88.26 acres. The design of the Lewis Road PRD provides 65% open space outside of the development area, to align with off-site open space as required by the CLUP. Further, there will be no significant discharges within 200 feet of any public supply well. Since the project conforms to zoning, no transfer of credits is required. Based on these factors, the Lewis Road PRD is consistent with the Findings Statement and there are no significant adverse impacts expect with regard to water resources.

- (ii) *The area to be developed as part of the Proposed Project site does not immediately adjoin to existing surface water, ponds or wetlands; however, the headwaters of Weesuck Creek as well as Shinnecock Bay are downgradient of the site. Nitrogen impact reduction has been a focus of the Project and comprehensive impact analyses were provided in the FEIS. It is expected that the proposed project, inclusive of its land preservation and wastewater treatment system, will have a mass balanced, average nitrogen concentration of less than 1.0 mg/l (even with the SONIR modeling revisions suggested by the Planning Board's consultant), which conforms to the nitrate-nitrogen guideline of 2.5 mg/l per CLUP and is less than what could be achieved under alternative development scenarios. Overall, the proposed project results in the lowest nitrogen load of all alternatives analyzed. With the proposed irrigation-fertigation system that will utilize groundwater that already contains high concentrations of nitrogen and take it out of the system (as modified per the results of refined nitrogen loading and groundwater dispersion modeling outlined in Water Resources above), the project is expected to result in a net negative nitrogen load which is beneficial to underlying groundwater within the Central Pine Barrens, as well as downgradient streams, bays, and coastal resources.*

The above indicates that the Hills PDD would result in the reduction in nitrogen impact to

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groundwater (net negative), as well as to surface waters of Weesuck Creek and Shinnecock Bay, due to its inclusion of on-site land preservation, the tertiary STP, and implementing a modified irrigation-fertigation system. The nitrogen budget has been updated to reflect the Lewis Road PRD proposal, and the concentration of nitrogen in recharge will continue to be less than 1 mg/l and therefore will conform to this Guideline. The potential impacts associated with groundwater quality protection for the Hills PDD were reviewed by the Town Board, and were deemed to not be significant. The proposed Lewis Road PRD will include measures within the Site Plan including:

1. The southern legs/fairways of the golf course are currently located on the central and eastern portions of the property as it extends southward toward the LIRR ROW. Since the highest fertilization rates will be on the fairways of the golf course, there will be nitrogen leaching at concentrations greater than the mass balanced average for the site. Therefore, the above modeling procedures as outlined in Water Resources A and B above will be conducted. If the results show a significantly higher nitrogen level than calculated by a mass balancing of the entire site, then the southern legs/fairways of the golf course may be relocated to the central and/or western portions of the property as it extends southward toward the LIRR ROW. This change will add several hundred feet of groundwater buffer to Weesuck Creek, which connects to Shinnecock Bay an impaired water body.
2. The applicant has indicated that there will be two irrigation ponds. The second pond will be the mixing pond prior use for irrigation of the fairways. The highest concentrations of nitrogen will occur in this pond. For that reason, detailed cross sections of the pond liner/barrier with groundwater leak protections and overflow protections is needed prior to approval. A detailed section of this pond shall be provided to the Town and reviewed by the Town Engineer and Planning staff for adequacy of such protections.
3. The mitigation/ fertigation groundwater modeling will need to be rerun as outlined in Water Resources A and B above with nitrogen calculations provided for specific locations where fertilization will occur. Once these location-specific nitrogen impacts have been layered on the existing mitigation/fertigation groundwater modeling (including the existing nitrogen plume from agricultural uses upgradient of the site), the location of fertigation wells may need to be changed and/or added to, to maximize the capture of nitrogen due to combined impacts of the existing plume, waste water treatment systems and site-specific fertilization. This revised modeling shall provide for future predictions of nitrogen conditions as it impacts the final location of the Suffolk County Water Authority parcel which will result in new public water supply wells (i.e., an area outside these impact and fertigation locations will be chosen).

These measures would protect and improve groundwater and surface water quality to the same or greater degree than the PDD. Therefore, it is expected that the potential impacts for the proposed Lewis Road PRD project would likewise not be significant and the project is found to be consistent with the Findings Statement.

(iii) *The applicant has proposed an Integrated Turf Health Management Plan (ITHMP). Among the*

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design requirements of the ITHMP is a design requirement for liners under the greens to capture drainage water. This drainage water would then be collected and treated or reused for irrigation.

The proposed Lewis Road PRD includes the same ITHMP as that of the Hills PDD. The Lewis Road PRD will include a similar drainage system design (including installation of 40 mil liners beneath the greens and treating stormwater) and the full measures for turf management for maximum nutrient uptake as outlined in the ITHMP which was incorporated into the EIS record. The potential impacts related to turf management were reviewed as part of The Hills PDD, and were deemed to not be significant. Therefore, it is expected that the potential impacts for the proposed Lewis Road PRD project, with Site Plan conditions provided in Water Resources Item (ii), 1, 2 and 3 above, would likewise not be significant.

Overall, the proposed project, as a clustered subdivision results in the lowest nitrogen load of all alternatives analyzed. The proposed mitigation-fertigation system (as modified by the results of the proposed modeling refinements described in Water Resources Item (ii), 1, 2 and 3 above) will utilize groundwater that already contains high concentrations of nitrogen and take it out of the system, and so, the project, considered as a subdivision, would result in a net negative nitrogen load which is beneficial to underlying groundwater within the Central Pine Barrens, as well as downgradient streams, bays, and coastal resources.

- (iv) *The use of groundwater with elevated nitrogen levels for both irrigation and as a fertilizer source would be supplemented with fertigation which is projected to improve local groundwater and minimize project impacts on groundwater, particularly with respect to nitrogen.*

Like the Hills PDD, the Lewis Road PRD will include use of groundwater from beneath the site (having high nitrogen levels due to agricultural use upgradient of the site) for golf course irrigation, supplemented with fertigation techniques (as modified per the results of refined nitrogen loading and groundwater dispersion modeling outlined in Water Resources Item (ii), 1, 2 and 3 above), to improve the quality of groundwater down gradient of the site. This will result in a net negative nitrogen load and will improve local groundwater quality with respect to nitrogen. The potential impacts associated with this proposal for the Hills PDD were reviewed by the Town Board, and were deemed to not be significant. Therefore, it is expected that the corresponding potential impacts for the proposed project would likewise not be significant.

- (v) *In addition, the applicant has agreed to limit the amount of fertilized land to 88 acres (e.g., greens, tees). The ITHMP and fertilizer limits will be implemented through a Management Program document reviewed, approved and implemented by the Town which will establish protocols for the use of fertilizer, pesticides, and ground water monitoring. The covenants and restrictions placed on the PRD project and property will require the ITHMP to establish a maximum application of fertilizer to no more 2.5 lbs/1000 SF/yr of nitrogen to greens, tees and fairways and 1.0 lbs/1000 SF/yr to rough and residential areas. Further, if there is any violation of said protocols all fertilization and pesticide application activities shall halt, and the use of the golf course shall cease until such time as it can be determined the cause of the violation and the corrective action can be identified. In addition, the Town would have the ability to impose a substantial fine for any violations of the protocols established in the ground water monitoring and protection program. The monitoring would be based on submitted reports to the Town and oversight by the Town. The Town could also inspect the site to monitor compliance and would also have data from the monitoring wells (see below).*

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The proposed project will include an ITHMP similar in content to that prepared for and reviewed by the Town for the Hills PDD. In this way, it is expected that the Lewis Road PRD will provide the same or similar level of protection to groundwater and surface water resources as was reviewed by the Town for the Hills PDD. The Lewis Road PRD will include a maximum application of fertilizer to no more 2.5 lbs/1000 SF/yr of nitrogen to greens, tees and fairways and 1.0 lbs/1000 SF/yr to rough and residential areas to be implemented by whatever means the Planning Board finds appropriate. Total fertilized acreage will not exceed 15% of the site, or 88.26 acres, and will include golf course tees (as underlined), greens (as underlined) and fairways, and areas within lots and in the community clubhouse area. The overall potential impacts anticipated from the ITHMP for the Hills PDD were reviewed by the Town Board, and were deemed to not be significant. Therefore, it is expected that the overall potential impacts for the proposed project would likewise not be significant.

The Planning Board will impose that in the event of any violation of Integrated Turf Health Management Plan (ITMHP) protocols, all fertilization and pesticide application activities shall halt, and the use of the golf course shall cease until such time as it can be determine the cause of the violation and the corrective action can be identified. In addition, the Town would have the ability to impose a substantial fine for any violations of the protocols established in the ground water monitoring and protection program. The monitoring would be based on submitted reports to the Town and oversight by the Town. The Town could also inspect the site to monitor compliance and would also have data from the monitoring wells.

- (vi) *The proposed ITHMP includes the limited use of certain environmentally sensitive pesticides that may be used on the site to achieve reasonable pest control and to maintain healthy turf at the proposed golf course. The Town Board is aware that every pesticide product which is used, distributed, sold or offered for sale in New York State must be registered by the NYS Department of Environmental Conservation (NYSDEC). Under Sections 33-0301 and -0303 of the Environmental Conservation Law (ECL), the NYSDEC has sole jurisdiction in all matters pertaining to the distribution, sale, use and transportation of pesticides. They also regulate the registration, commercial use, purchase and custom application of pesticides. As described by NYSDEC, "pesticides, properly used for the control of insects, fungi, weeds, and nematodes, and as defoliants, desiccants, and plant regulators and for related purposes, are valuable, important and necessary to the welfare, health, economic well-being and productive and industrial capabilities of the people of this state; however, such materials, if improperly used, may injure health, property and wildlife." It is noted that review of specific compounds and chemical structures contained in pesticide formulations labeled for the control of pests commonly associated with turfgrass management are pre-empted by the State; however, through the pesticide registry those labeled for use here are tested and formulated specifically for Long Island because of the sole- source aquifer.*

In the PRD project, the entire property, which includes the single-family dwelling lots, will be managed and maintained by a single entity that will be required to comply with the ITHMP as described in the DEIS and FEIS. Integrated Pest Management (IPM) is a decision- making process that requires training in all phases of turfgrass management, including biology, soil science, pest management, and cultural practices. It involves establishing pest response threshold levels that are consistent with the intended use of the turf, intensive field monitoring, good record keeping, and consideration of different pest control strategies.

The keystone of a turfgrass IPM program is frequent, careful monitoring of pest activity. If the monitoring program is successful, pests can be detected early and controlled before the threshold

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level is exceeded. By keeping good records of previous pest activity, turfgrass managers will know where and when to look for subsequent pest issues and utilize certified applicators to apply registered pesticides to targeted areas when needed.

Certified pesticide applicators are subject to NYSDEC requirements in terms of pesticide reporting. The Pesticide Reporting Law requires every certified commercial applicator to report regulated pesticide activities from January 1 through December 31 of each year. This report requires detailed information on the type, area and quantity of pesticide used in an application. This type of oversight is typically unavailable for a single-family subdivision in an environmentally sensitive area as most people apply their own pesticides and fertilizers, which has a higher likelihood of misuse and over-application than that of a professional who is charged with maintaining the grounds to the highest standard. A certified pesticide applicator is also educated on best management practices, including those that minimize aerial drift and curtail unintended exposure, as well as following personal protection protocols required by the label and New York State law. The MUPDD will have monitoring wells and reports to confirm that the standards are routinely met, and the ITHMP will require that turfgrass/sod come from approved Long Island sources.

Implementation of the ITHMP is intended to provide a level of safety to ensure that no impact occurs to people, wildlife, water resources or the local ecology as a result of the action. The whole premise behind an integrated turf management program is to promote the health and vitality of the soil. Utilizing the strategies in the program will result in a more efficient use of pesticides, which translates into a reduction in need for pesticide use. With the safety, reporting and monitoring protocols followed, the limited use of pesticides as outlined in the ITHMP is not expected to result in any significant impacts. This expectation has been factually demonstrated within the other two monitored golf courses within the Town, namely Sebonack and The Bridge.

The proposed Lewis Road PRD will utilize the same ITHMP (and IPM) as was prepared for and reviewed by the Town for the Hills PDD, and found to be appropriate in terms of groundwater and surface water quality protection, as well as for human health protection. The Lewis Road PRD will also include the GMP incorporated into The Hills EIS record. NYSDEC Licensed pesticide applicators and trained personnel will be involved with all aspects of management of the golf course recreational amenity and appropriate safety, reporting and monitoring protocols are agreed to by the applicant to be incorporated into the decision making on the Lewis Road PRD. In this way, it is expected that these resources will be protected to at least the same degree as was established for the Hills PDD. The potential impacts anticipated from the ITHMP for the Hills PDD were reviewed by the Town Board, and were deemed to not be significant. Therefore, it is expected that the potential impacts for the proposed project would likewise not be significant.

There is some amount of uncertainty over the concentration and spread/dispersion of nitrogen loads from specific locations within the PRD project itself as described in A, B above. It is noted that the whole premise behind an integrated turf management program is to promote the health and vitality of the soil. Utilizing the strategies in the program will result in a more efficient use of pesticides, which translates into a reduction in need for pesticide use. With the safety, reporting and monitoring protocols followed, the limited use of pesticides as outlined in the ITMHP is not expected to result in any significant pesticide impacts.

- (vii) *In addition to the above, the Applicant will be required to engage in a regular sampling program*

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to monitor groundwater quality, which is necessary to ensure that the Proposed Project does not adversely impact water resources. The groundwater monitoring program (GMP) for the proposed golf course is proposed to be comprised of two parts: 1) monitoring the volume of fertilizer being applied; and 2) monitoring any impacts on groundwater quality from the fertilizer applied and all applied pesticides potentially leaching into groundwater. As part of the groundwater monitoring program a total of fourteen (14) groundwater monitoring wells and nine (9) lysimeters will be installed throughout the golf course to monitor the water quality beneath the golf course four times per year. The irrigation pond will also be monitored.

The Lewis Road PRD will include the same groundwater sampling program as was prepared for the Hills PDD, in order to ensure that groundwater quality is properly protected. The GMP proposed as part of The Hills is incorporated into the decision making process on the Lewis Road PRD. As a result, the proposed project is consistent with the Findings Statement and no significant impacts are expected given these protocols.

- (viii) *The applicant has developed and proposed a program to monitor groundwater quality, which is necessary and sufficient to ensure that the project does not adversely affect water resources. Under this proposed monitoring program, renewable in perpetuity, a five-year sampling plan will be supplemented with a quarterly sampling of nitrogen and the pesticides that may have been used during the previous twelve-month period. An independent laboratory, acceptable to the Town, will conduct all water testing. The sampling would be conducted under the direction of an entity acceptable to the Town.*

The Lewis Road PRD will include the same groundwater sampling program as was prepared for the Hills PDD, and will include a supplementary quarterly sampling program for nitrogen and pesticides applied during the previous year. The groundwater sampling program will be reviewable after a period of five (5) years. Additionally, the same requirements for use of an independent sampler, and use of an independent laboratory (both of which shall be acceptable to the Town) to perform all sample testing will ensure that groundwater quality is properly monitored. Consequently, the proposed project is consistent with the Findings Statement and no significant adverse impact is expected.

- (ix) *If a pesticide or nitrogen species is detected above a response threshold in any lysimeter or groundwater sample: (a) the use of the pesticide and or nitrogen fertilizer will be stopped; (b) the lysimeter or well will be tested again as soon as practically possible to confirm the presence of the pesticide/nitrogen and to see if the concentration is rising; (c) the environmental (rainfall after application) and management (amount of irrigation after application, amount of pesticide-fertilizer application, etc.) conditions at the time of the pesticide-fertilizer application and immediately after would be documented; (d) when nitrate concentrations drop below 2 mg/L fertilization can resume; (e) when the concentration of a pesticide drops below the response threshold its use may resume.*

The Lewis Road PRD will include the same groundwater sampling program, including the same action thresholds and requirements, as was devised for the Hills PDD, in order to ensure that groundwater quality is properly protected. As a result, the proposed project is consistent with the Findings Statement and no significant adverse impact is expected.

- (x) *Based on an independent review of the proposed project it is concluded that with the above measures in place, the proposed project would not result in any significant adverse impacts on groundwater or surface waters.*

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By design, the Lewis Road PRD incorporates all of the on-site aspects and features of the Hills PDD with respect to groundwater and surface water quality and health protection. Although there is uncertainty over the concentration and spread/dispersion of nitrogen loads from specific locations within the PRD project itself as described in Water Resources A, B above, any changes resulting from those refined data and a significant amount of testing and protocols will ensure against any significant environmental impacts. In this way, the Lewis Road PRD would not result in any significant adverse impacts on groundwater or surface water resources. As a result, the proposed PRD project is consistent with the Findings Statement and no significant adverse impact is expected.

- (xi) The IHTMP that contains the components described above will be subject to final review and approval by the Planning Board as modified with any changes resulting from those refined data described in Water Resources A and B and with a requirement for the submission of regular monitoring reports.

As noted above, the proposed Lewis Road PRD will utilize the same ITHMP as was prepared for and reviewed by the Town for the Hills PDD and found to be acceptable in terms of groundwater and surface water quality protection, as well as for human health protection. The project's ITHMP will contain provisions for regular reports of monitoring activities to be submitted to the proper Town office. As a result, the proposed project is consistent with the Findings Statement and no significant adverse impact is expected.

- (xii) *The Suffolk County Water Authority (SCWA) has expressed the desire for new wells on the project site. The Applicant has included in their site plan approximately 4 acres for a new well field to be dedicated to the SCWA as part of the proposed public benefits. The Planning Board questioned if the dedication of 4 acres for a well site was considered a public benefit if it was instead a project requirement. The DEIS included correspondence from the SCWA dated September 21, 2015 that indicated this agency did not anticipate any water quality impacts due to the proposed project. The letter further indicated that once constructed, the proposed well(s) on the property would produce high quality water for the foreseeable future. After the FEIS was deemed complete, the SCWA submitted another letter dated November 6, 2017 indicating that they will be providing water for domestic consumption and fire suppression for the 118 housing units and clubhouse. It further states that "the developer will be responsible for making system improvements including distribution system piping, booster upgrades and a new booster station in order to ensure [potable] water is available". The letter further discusses the irrigation well plan and the conveyance of the land for SCWA to use as a new well field and storage. This dedication is not required as a condition of approval from SCWA but the system improvements are. Therefore, the Town Board still considered this dedication to be a public benefit to all users within Suffolk County Water Authority jurisdiction.*

While the Hills project was a PDD, and so required provision of Community Benefits, the Lewis Road project is a PRD, which under zoning law of the Town, does not require Community Benefits to offset an increase in density as would be provided for under "incentive zoning." The Lewis Road PRD will be supplied with public water for domestic use from the existing SCWA distribution system, while its irrigation needs will be addressed by installation of a new on-site irrigation well(s). The proposed project will provide improvements to the SCWA distribution system as needed to serve the proposed project, and on-site irrigation wells

will be permitted by NYSDEC and installed for irrigation of the golf course recreational amenity and landscaping. Therefore, the Lewis Road PRD need not and does not include dedication of land for a new SCWA public water supply wellfield. The Planning Board still considers any dedication to be a public benefit to all users within Suffolk County Water Authority jurisdiction, if it were to be included by the applicant.

- (xiii) *The project will conform to all Suffolk County Department of Health Services (SCDHS) regulations for the disposal of wastewater. Additionally, an on-site sewage treatment system will be installed and will consist of tertiary treatment with a nitrogen treatment level of 10 mg/l or less. The STP shall be located in the northwestern corner of the Project Site. This location is in-line with groundwater flow that shows elevated nitrogen concentrations from upgradient historic/current farming is on the west side of the site and would situate the STP as far as possible, approximately 1.5 miles, from downgradient wetlands and the surface waters of Weesuck Creek and Shinnecock Bay. Thus, this proposed facility is located at the greatest distance possible from surface waters. In accordance with applicable SCDHS requirements, an area for this facility has been set aside on the site plan that is twice the building footprint in size, in the event that expansion at a later date is necessary. The site plan also includes an access drive and leaching area, with additional area for leaching area set aside for future expansion, if required by the SCDHS. The Applicant has presented information that this system can potentially achieve compliance the NYS effluent limitation of 10 mg/l and is expected to perform consistently with much lower total nitrogen concentrations. SONIR modeling has also been provided in this FEIS assuming a 10 mg/l nitrogen effluent with the proposed project, noting that the residential density is still consistent with the CR-200 (5 acre) zone and there is a significant amount of open space and undisturbed natural vegetation to provide for aquifer recharge.*

The proposed Lewis Road PRD will provide a tertiary STP in the same location as was evaluated in the Hills PDD. This facility is expected to result in the same or similar level of performance, providing effluent within the applicable SCDHS standard of 10 mg/l. SONIR modeling is updated for the proposed project and will still result in a concentration of nitrogen in an overall site recharge of less than 1.0 mg/l. The STP will be reviewed and approved by SCDHS and will perform as outlined in the EIS record for The Hills PDD. The potential impacts associated with the STP performance were reviewed by the Town Board for the Hills PDD project, and were deemed to not be significant. Therefore, the proposed project is consistent with the Findings Statement and the potential impacts for the proposed project will likewise not be significant.

3. Ecological Resources

A. Aquatic Ecology

- (i) *There are no existing wetlands within the development area of the project.*

As there are no wetlands in the area of the site that will be developed for the Hills PDD, and the Lewis Road PRD will develop the same or similar area, there will be no impact to such a resource from either proposal.

- (ii) *As described within the DEIS and FEIS, the proposed Project would not result in any indirect impacts on the water quality of Weesuck Creek or Shinnecock Bay and therefore is not expected to result in any impact on the aquatic ecology of these resources.*

This Finding confirms that, as the Hills PDD would not result in nitrogen-related impact to groundwater or, through subsurface flow, to surface waters of Weesuck Creek or Shinnecock Bay, that proposal would not impact the aquatic ecology of these surface water bodies. The proposed Lewis Road PRD will include the same or similar water resources-related measures (as modified with any changes resulting from those refined data described in Water Resources A and B), supporting a conclusion that this proposal would also not impact the aquatic ecology of Weesuck Creek or Shinnecock Bay.

As a subdivision, the clustered proposed PRD with the golf course minimizes nitrogen loading overall, even with the requested changes to the SONIR modeling as described in Water Resources A above. Thus, as a whole, the project is not expected to significantly impact Weesuck Creek.

B. Terrestrial Ecology

- (i) *Clearing limitations will conform to Town of Southampton Central Pine Barrens Overlay District and the limitations of the CLUP. The proposed project has put heavy emphasis on the preservation of existing natural resources. Therefore, of the total 588.39 acres, only 160.81 acres (about 27.3 %) will be developed as part of the proposed project. Outside of the proposed development area, the Proposed Project would provide 427.58 acres (about 72.7 % of the site) of open space preservation area with public trails. Additionally, a 33 acres site located in the head lands of Weesuck Creek will be preserved, which could have potentially yielded 32 additional dwelling units.*

The configuration of the clearing program for the Lewis Road PRD will conform closely to that of the Hills PDD, so that impacts to natural vegetation and ecology would be similar as well. However, as the detailed design of the PRD has been revised to provide a greater amount of retained open spaces outside of the development area, the contiguous open space associated with the proposed project will be improved. It is noted that with the slightly modified design, the property size is 588.39 acres. The same percentages will be applied based on the project site size, such that 72% of the existing natural vegetation will be retained. The Lewis Road PRD will not, however, provide preservation of the non-contiguous 33-acre parcel, as this feature was a Community Benefit for the Hills PDD, but is not required for the proposed project. The potential impacts associated with clearing were reviewed by the Town Board for the Hills PDD project, and were deemed to not be significant. Therefore, it is expected that the potential impacts for the proposed project would likewise not be significant.

- (ii) *The majority of the existing natural vegetation on the site is pitch pine forest habitat. There are also areas that have been previously disturbed. Clearing is necessary to implement the proposed project; however, this clearing is proposed to be concentrated in areas that are for the most part, previously cleared or disturbed. The project will concentrate development on 142 acres of land to be cleared, of which 44 of those acres have been previously cleared. The previously disturbed areas will be used for construction of the residential units, roads, and accessory structures. Reuse of previously disturbed areas is proposed to minimize impacts on woodland/Pine Barrens habitat. With the proposed project approximately 115 acres of pitch pine forest will be cleared; however, the proposed project will also preserve 427 acres of the site with a significant amount of land offered for dedication to the Town of 189 acres at commencement of construction with routine monitoring and surveillance during the process to ensure that the clearing and grading activities will not negatively impact the surrounding ecosystem.*

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The Lewis Road PRD layout closely follows the general development and layout design of the Hills PDD (including its general intent to concentrate development on the site's previously-disturbed areas), so that its clearing area, development area and retained natural open spaces also follow those of the Hills PDD. The detailed design of the PRD provides 65% of the site as open space outside of the development area, while retaining 72% of the existing natural vegetation on the site. The potential impacts associated with clearing of natural vegetation for the Hills PDD were reviewed by the Town Board, and were deemed to not be significant. Therefore, the proposed project is consistent with the Findings Statement and it is expected that the corresponding potential impacts for the proposed project would likewise not be significant.

- (iii) *The proposed subdivision and site design of the project supports preservation of natural vegetation in large unbroken blocks that allow contiguous open spaces to be established. The subdivision and golf course site designs are found to be configured in a manner that prioritizes the preservation of native Pine Barrens vegetation to the maximum extent practicable.*

The Hills PDD was designed to provide its retained natural open spaces in large blocks insofar as practicable, to result in substantial contiguity of open spaces in the area. The Lewis Road PRD also is designed and configured to produce this outcome. The potential impacts associated with planned configuration of clearing for the Hills PDD were reviewed by the Town Board, and were deemed to not be significant. Therefore, the proposed project is consistent with the Findings Statement and it is expected that the corresponding potential impacts for the proposed Lewis Road PRD project would likewise not be significant.

- (iv) *Consistent with the CLUP, the preservation of the above-referenced 427 acres will maintain the essential character of the existing Pine Barrens environment, including the protection of indigenous plant and animal species and their associated habitats to the maximum extent practicable. As described, the proposal centers the development on the previously disturbed areas to maximize retention of the existing Pine Barrens habitat. Consistent with the Recommended Plan described in the East Quogue GEIS, any other disturbed area in the Core is not being utilized as a deduction in calculating vegetative clearing limits.*

Following the revisions to the design of the PRD, to provide a greater amount of retained open spaces, it is expected that the proposed Lewis Road PRD would retain an estimated 427± acres of open space, and conforms to the standards of the CLUP, including those standards addressing plant and animal species and habitat protection. The Hills PDD was designed to provide 427± acres of retained natural open spaces in large blocks insofar as practicable, to result in substantial contiguity of open spaces in the area, and to concentrate development on the site's previously-disturbed areas. The potential impacts associated with the preservation of natural spaces for the Hills PDD were reviewed by the Town Board, and were deemed to not be significant. The Lewis Road PRD also is designed and configured to produce this outcome, and retains much the same layout of retained open spaces as the Hills PDD. Therefore, the proposed project is consistent with the Findings Statement and it is expected that the corresponding potential impacts for the proposed project would likewise not be significant.

No areas of previously-disturbed land of the project site are within the CPB CPA, so no such areas were utilized in calculations of vegetative clearing limits.

- (v) *Investigations were undertaken for the DEIS to confirm that areas of the site that may be sensitive for rare, threatened, or protected species have been avoided. In addition, as part of the site plan review and pre-construction, a survey of areas proposed for development will be performed to*

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confirm that none of the protected species that are known to inhabit this area of the Pine Barrens would be impacted by any proposed clearing or project construction. Based on these investigations, if protected species are identified, the Applicant has proposed as mitigation measures that these areas would be avoided by the site plan and/or other options would be implemented, such as plant rescue/relocation. If transplanting is determined to be possible, a professional horticulturalist will perform the transplanting of the species to optimize survival. Transplanting of this species would be the responsibility of the Applicant and would be performed under the supervision of the Applicant in accordance with a protocol approved by the Town prior to the commencement of construction activities.

The limits of clearing for the Hills PDD were reviewed by the Town as part of its review of that application and, in consideration of the distribution of habitat types on the site, determined whether those limits would impact any sensitivity for rare, threatened or endangered species. Consistent with the Findings, should field investigation reveal the presence of sensitive species in areas to be disturbed, the Applicant will perform appropriate mitigation, which may include but not be limited to transplantation. The potential impacts of the Hills PDD with respect to rare, threatened or endangered species were reviewed by the Town Board, and were deemed to not be significant. The Lewis Road PRD will conform closely to the clearing area and development area values and configuration of the Hills PDD, so that impacts to natural vegetation and ecology would be similar as well. Therefore, the proposed project is consistent with the Findings Statement and it is expected that the potential impacts for the proposed project would likewise not be significant.

- (vi) *With the proposed project, approximately 25 acres of former farmland will be restored through a planting plan that is proposed to include a combination of native woodland, shrubland and grassland/meadow habitats to be provided under the supervision of a certified ecologist. Detailed restoration plans will be provided during site plan review. Only native species will be utilized for any restoration work to ensure that native habitat restoration goals are achieved.*

In the same manner as was proposed for the Hills PDD, the Lewis Road PRD will revegetate the estimated 3 acres of the Hills South Parcel/Kracke Property that had been farmed. An additional 7± acres on the Parlato Property and the Hills South Parcel/Kracke Property that had been disturbed but not farmed will be revegetated. Specific revegetation plans were included as part of the Lewis Road PRD site plan application, and must be approved by separate resolution as a condition of approval. The potential impacts associated with the Hills PDD revegetation plan were reviewed by the Town Board, and were deemed to not be significant. Therefore, the proposed project is consistent with the Findings Statement and it is expected that the potential impacts for the proposed project would likewise not be significant.

- (vii) *As described in the FEIS and above, in addition to the large tracts of land proposed for preservation, the 33 acres known as the Parlato parcel was also to be sterilized from development through the TDR process and this added benefit will not only reduce nitrogen loading but would have also increased the open space assemblage in the area and eliminate development pressure. The portion of the project area designated as a Critical Resource Area will also be preserved. In total the project is found to promote the preservation and conservation of open space, natural resources, diverse ecological communities, species diversity, and groundwater quality and quantity and provides connection of open space areas. Maximization of unfragmented open space will support terrestrial ecosystem functions by allowing for plant and animal species to have suitable habitat as well as migratory corridors for climate change adaptation.*

The proposed Lewis Road PRD will preserve the entirety of the 101.91-acre Parlato Property, and would reduce nitrogen loading to groundwater and increase the amount of open space in the area east of the subject site. This will ensure protection of the Critical Resource Area associated with the Parlato Property. With respect to the 33-acre Parlato parcel, while the Hills project was a PDD which required Community Benefits under “incentive zoning” provisions, the Lewis Road project is a subdivision for a PRD, conforms to zoning, and does not require Community Benefits. Therefore, the Lewis Road PRD does not include purchase of the 33-acre Parlato parcel. The Lewis Road PRD includes other aspects of the Hills PDD that would result in substantial preservation of open space, natural resources, ecological communities, and groundwater quality and quantity, and will provide its open spaces in large contiguous blocks. As a result, no significant adverse impacts are expected.

4. Transportation Resources

- (i) *A traffic analysis for the proposed project demonstrates that the Proposed Project would not result in any significant adverse impacts and said Traffic Impact Analysis was peer-reviewed by the Town’s consultant, AKRF. An operational traffic monitoring program will be required to be prepared and submitted with the site plan to confirm that traffic circulation at the intersection of the proposed access road and Lewis Road is operating acceptably as identified in the traffic analysis.*

The Lewis Road PRD does not allow for any outside golf club memberships, so that the trip generation of the project will be less than that of The Hills PDD. As a result, it is expected that the potential impacts on traffic flow on local roadways and at local intersections will be reduced for the Lewis Road PRD. As required by the Findings Statement, a program will be prepared for the Lewis Road PRD and submitted to the Town as part of the site plan conditions, to monitor the performance of the site entrance on Lewis Road. The potential traffic-related impacts of the Hills PDD were reviewed by the Town Board, and were deemed to not be significant. Therefore, the proposed project is consistent with the Findings Statement and it is expected that the potential impacts for the proposed Lewis Road PRD project would likewise not be significant.

- (ii) *The FEIS identified preliminary grading and associated quantities of material to be filled or cut and removed as excess material which is expected to total up to 350,000 cubic yards. Although the applicant identified additional options transport this material to the adjoining mine site, as outlined below, there will be no significant impact to traffic as a result of the transport of the fill material utilizing Lewis road as was analyzed within the DEIS.*

Option 1: The existing farm road on the western adjacent property, which would avoid commercial vehicle use of Lewis Road.

Option 2: Lewis Road via the proposed roadway to the proposed project from Lewis Road.

Option 3: A temporary conveyor belt system would be installed for transporting material to East Coast Mines and the farm road or Lewis Road would be used to import soils to the Hills site. This option reduces vehicle trips on Lewis Road and transports the excess soils to the sand mine pit.

Option 4: Construct a temporary construction haul road over the adjacent western farmland property to East Coast Mines.

Under options that include the farmland, the proposed project must obtain a license agreement

with the owner of property. In addition, the Town's agricultural easement requires the Town permission to temporarily utilize the existing farm road. The Planning Board recommends that the applicant pursue the alternative that would convey the sand from within the site. As stated in the FEIS (Page 1-19), the applicant will continue to pursue the potential to utilize a conveyor belt system or temporary haul road (options 3 & 4). In the event that options 3 & 4 are not feasible, in order to minimize the potential impact to Lewis Road due to the transport of the subject fill material between the Hills property and East Coast Mines, a performance bond will be required to ensure Lewis Road is restored to pre-construction conditions.

The Lewis Road PRD will result in a similar volume and configuration of grading as the Hills PDD, so that the excess soil removal options are likewise anticipated to be the same or similar as well. Like the Hills PDD, the applicant will obtain the proper access agreement (including performance bonding) with the adjacent landowner to enable the removal system to be implemented across land not under the control of the applicant. In the event this is not feasible, a performance bond will be provided to ensure Lewis Road is restored to pre-construction conditions. The project is consistent with the Findings with respect to soil removal and related construction impacts and based on this conformity, no significant adverse impacts are expected.

5. Land Use, Zoning, and Comprehensive Plans

- (i) *The site is currently undeveloped and would be developed by the Proposed Project in conformance with current plans and policies. The current zoning on the site is CR-200 with several overlay districts including the Town's APOD (Article XIII, Sections 330-66 and 330- 67), the Town's Central Pine Barrens Overlay District (Chapter 330, Article XXIV, Sections 215 to 221). The clearing restrictions within these plans have been developed to ensure the highest level of groundwater recharge and vegetation protection and therefore the Board is requiring strict adherence to the percentage of clearing established within these plans. The local law accounts for delineating the limits of clearing and demarcation of any large caliper trees within the development area that can be protected. The Proposed Project would be developed under the Town's MUPDD requirements (§330-240 E) and this proposed zone would not conflict with the objectives of any other zoning districts in the area. The proposed project is consistent with the planning objectives of the Southampton Tomorrow 1999 Comprehensive Plan Update, the 1993 Western Town Generic EIS, the East Quogue GEIS and adopted Recommended Land Use Plan, the SGPA and the Central Pine Barrens CLUP. The most recently adopted East Quogue GEIS and Recommended Land Use Plan indicates the subject parcels should be developed as a mixed-use proposal that combines housing, resort/recreation, and open space uses with protected areas of natural resources. It articulates the goal to "encourage uses that will generate positive net tax ratables, while having little or no adverse financial impact on the school district". The Recommended Plan also indicates that the number of potential housing units could be increased (by no more than 15 percent) if the development can submit satisfactory and sufficient documentation to the Town confirming a housing profile of only seasonal or resort type residences.*

This Findings confirm that the Hills PDD conforms to the policies and recommendations of the Town APOD, the Town Central Pine Barrens Overlay District, the Town Comprehensive Plan Update, the Western Town GEIS, the East Quogue GEIS and adopted Recommended Land Use Plan, the SGPA and the Central Pine Barrens CLUP. The potential impacts associated with these recommendations upon the Hills PDD were reviewed by the Town Board, and were deemed to not be significant. The uses, yields, design and features of the proposed Lewis Road PRD closely follow those of the Hills PDD (with elimination of outside golf memberships), so that it is expected that the potential impacts for the proposed project would likewise not be significant.

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In the case of the Lewis Road PRD, twelve (12) units of workforce affordable housing are being added to the project to conform with Town Code and the Long Island Workforce Housing Act.

- (ii) *In the subject proposal, the number of housing units conforms to the total amount that would be allowed in the underlying CR200 (5 acre) residential zone. There is no increase in residential density as part of the subject PDD proposal. The proposed action does allow for a private golf course use that is accessed through a membership program and the construction of a clubhouse and various amenities that will be provided for the exclusive use of the residents/members. The nitrogen component of the golf course use is accounted for through the extinguishment of Pine Barrens Credits and complies with the purpose and intent of sending/receiving areas as well as §330-246B where there is no substantial increase in the number of dwelling units or population within the Town because development has been redirected in order to channel growth and preserve more ecologically sensitive lands.*

The Lewis Road PRD seeks the same 118-unit yield that was reviewed by the Town Board for the Hills PDD application, so that there will be no increase in impacts associated with yield. The Lewis Road PRD will further reduce the intensity of site use by eliminating outside golf club memberships, which would reduce such use to only the 118 households and their guests. The Planning Board will restrict the housing units from constructing accessory apartments in order to maintain the stated yield. As the proposed Lewis Road PRD project is a subdivision developed under the site's existing zoning, there is no requirement under Town law for inclusion of off-site mitigation measures proposed in the Hills PDD (e.g., purchase and retirement of PBCs, and purchase and retirement of yield from a proposed 33-acre subdivision application) and so, they are not included. Based on thorough review during the EIS process, not significant adverse impacts are expected.

- (iii) Discovery Land has offered a restrictive covenant for the residential units that confirms the limited occupancy of the housing units. The golf course use itself is also seasonal in nature (April-November) which is considered desirous to the community versus the alternative of a year-round residential subdivision. The Zoning Board of Appeals by decision dated November 15, 2018 found that the proposed private golf course, available only to the owners of the subdivision parcels and not to the public at-large, together with maintenance and operating buildings and structures that accompany said golf course are accessory to the proposed residential subdivision.
- (iv) With respect to open space and public access, under existing conditions, the site is currently private property and provides no public access. The Applicant is proposing 427.58 acres of preserved land, of which 188.83 would be offered to the Town for dedication as public open space, and is also proposing to implement a public access and a public trails plan that may utilize portions of the Project site where there are existing trails and adjoining public lands. It is proposed by the Applicant that this trails plan be further advanced in coordination with the Town's Trails Advisory Board. The Applicant will also coordinate with the Town on the maintenance of the public trail system on the project site. The Planning Board finds that providing public access and a trails system as part of this application is a necessary and important component of the project in terms of providing public benefits.
- (v) The Recommended Plan analyzed in the East Quogue GEIS and adopted as part of the Comprehensive Plan was found to be consistent with the Article 57 and Central Pine Barrens CLUP by preserving contiguous blocks of open space and utilizing already disturbed areas for development. Consistent with the Recommended Plan, the proposed action will construct

seasonal housing and recreation (golf) uses with state-of-the-art approaches to protecting existing environmental conditions and preserves 427.58 acres of Pine Barrens land. The Proposed Project is therefore consistent with the Recommended Plan and through the project-specific EIS process. It is found to be a Subdivision proposal that complies with all relevant planning documents and studies while minimizing/mitigating impacts to the greatest extent practicable while providing many social and economic benefits to the East Quogue Community. Therefore, it is concluded that the Proposed Project Subdivision is consistent with the above-referenced zoning requirements, plans, and policies.

- (vi) It is noted that the CPBC provided a letter dated October 16, 2019, in response to the referral request by the Planning Board. This letter addresses land use matters as related to the CLUP Standards and Guidelines. The CPBC letter does not provide a full evaluation of the complete record of information available including the DEIS, FEIS, Town Board Findings, SEQRA Compliance Analysis and related materials that have been fully considered by the Planning Board as part of the PRD Clustered Subdivision review. The Planning Board has prepared a detailed assessment of the project's conformance with the Standards and Guidelines of the CLUP and finds that the Proposed Project is consistent with the applicable provisions as related to land use (see **Attachment A**).

6. Community Facilities and Services

- (i) The Proposed Project will place limited, if any, demands on local facilities and services and has proposed community benefits that will support community services.
- (ii) Based on the occupancy restriction placed on the subject dwelling units as proposed by the project, the seasonal units within the Proposed Project will not generate any school children or demands on the East Quogue Union Free School District (UFSD). The 12 affordable units, which will be occupied full time, will have the potential to generate a small number of students for the local public schools. In its Supplement to the SEQRA Compliance Analysis of May 7, 2019 (sic 2017), the Applicant calculated, based on the proposed size and configuration of those units, that 2-3 school-aged children would be expected to reside there. This number of students is not expected to have a noticeable impact on the East Quogue UFSD. Moreover, the Proposed Project will generate tax ratables as a net benefit to the school district. Therefore, it is concluded that the fiscal impacts on the school district are positive.

7. Community Character

- (i) The Proposed Project will not result in any adverse impacts on community character.
- (ii) With respect to visual and scenic resources, a comprehensive assessment of the Proposed Project's potential to impact visual and scenic resources was performed. The assessment consisted of: 1) characterizing the existing visual resources; 2) identifying potentially impacted views; 3) identifying key views that may change due to project development; 4) preparing visual simulations at the selected viewpoints that show the before and after conditions or view impacts; and 5) evaluating the impact of change in public views. Based on this analysis and a review of the proposed site plan and buffers, the Proposed Project will not impact locals view or the visual character of East Quogue. Wooded buffers that were proposed during the review as a screening buffer from adjacent properties will be mandated.
- (iii) With respect to affordable housing, it is recommended that the Applicant provide

affordable (workforce) housing in accordance with calculations outlined in the Southampton Town Code, Chapter 216, Section 216-9 Per the Applicant's December 2018, SEQRA Compliance Analysis (Section 4.2) and the May 7, 2019 [sic 2017] Supplement to their December SEQRA Compliance Analysis, the PRD project will, therefore, provide 12 on-site units of affordable housing. With this action, it is concluded that the Proposed Project will be compliant with the Town's requirements to provide workforce (attainable) housing.

8. Cultural Resources

- (i) Archeological studies of the property have been completed. Based on these studies it is determined that the Proposed Project will not result in any impact on archaeological features.

9. Construction Impacts

- (i) As described in greater detail in the DEIS and the FEIS and reiterated in the PRD, the Proposed Project has committed to a number of measures to avoid impacts during construction include but are not limited to: *alternative methods for soil importation that are under consideration (see "Geological Resources," above); vehicular construction access will be limited to Lewis Road; repair and replacement of local roads that be damaged as a result of construction; material storage and soil stockpiling on site will only be at locations that do not impact the adjacent community; noise attenuation and control measures will be implemented during construction; implementation of a SWPPP; and areas within the site to be dedicated for parking and materials storage will be located in the vicinity of the proposed maintenance area and not near existing residences.*
- (ii) *A construction management plan will be prepared and submitted to the Town for review and approval prior to construction to ensure the mitigation measures and construction approaches described in the DEIS and FEIS (e.g., truck and vehicle traffic trip reduction, noise and fugitive dust controls) are properly implemented during construction.*

10. Implementation of Mitigation Measures

The Applicant proposes to implement all of the above impact avoidance and mitigation measures cited in the DEIS, the FEIS and the PRD proposal and summarized above.

11. Alternatives

A range of alternatives to the Proposed Project were examined in the East Quogue GEIS as well as the project-specific DEIS and FEIS including the no action alternative, residential subdivision alternatives under the current zoning, reduced density alternatives, alternative site designs and technologies, and a lesser impact alternative. The Planning Board extensively reviewed that record. The FEIS also examined a maximum residential alternative that could also generate up to 137 units through the use of Pine Barrens Credits and density incentives permissible under the Long Island Workforce Housing Act and an alternative that considered a lower density residential development with a horse farm that came out of the DEIS process. The FEIS examined all of the alternatives and their associated impacts. As a Subdivision, the clustered proposed PRD with the golf course recreational amenity minimizes impacts to the environment.

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III. Certification

State Environmental Quality Review Act
FINDINGS STATEMENT SIGNATURE PAGE

Having considered the Draft and Final Environmental Impact Statements for the Subject Action’s Subdivision and Site Plan applications and having considered additional, refined information provided by the Applicant in December 2018 and May 2019 and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR Part 617.11 as an Involved Agency and to make its own Findings, this Statement of Findings certifies that the Southampton Planning Board as Involved Agency in the subject matter has:

1. considered the relevant environmental impacts, facts and conclusions disclosed in the SEQRA documents including the additional, updated information provided by the Applicant in December 2018, May and September 2019, Town Staff, Consultant and Planning Board deliberation as relevant to the pending Subdivision application;
2. weighed and balanced relevant environmental impacts with social, economic and other considerations;
3. provided a rationale for the agency’s decision;
4. met the requirements of 6 NYCRR Part 617; and
5. found that consistent with social, economic and other essential considerations, the proposed PRD Clustered Subdivision and Site Plan with the proposed conditions provided in Water Resources Item (ii), 1, 2 and 3, Item (iii) and Item (iv)) avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse impacts, will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures and safeguards that were identified as practicable.

By the Planning Board of the Town of Southampton,

Signature of Responsible Official

Name of Responsible Official

Title of Responsible Official

Date

Copies of this Findings Statement have been filed with:
 Lead Agency
 Other Involved Agencies