

Appendix I-3

February 7, 2017

THE HILLS SEASONAL RESORT MUPDD

PUBLIC HEARING TESTIMONY

of Wayne D. Bruyn, Esq.

February 7, 2017

Good Evening Board Members. For the record, my name is Wayne D. Bruyn, Esq. of O'Shea, Marcincuk & Bruyn, LLP, Southampton, New York. I appear before you tonight on behalf of the landowner and applicant, DLV Quogue, LLC (Discovery Land). At the previous three public hearings, we heard a number of comments that were not accurate or consistent with the record before you. I thank the Town Board for providing me this opportunity to address three points: (1) Consistency with the Comprehensive Plan and adherence to the findings under the EQ Land Plan & GEIS; (2) requirements under SEQRA to compare the proposed plan to the As-of-Right/Full Build-Out Scenario; and (3) the residential density of the project has already been significantly reduced by the Town's actions.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

At the last three public hearing I submitted written documentation and provided exhaustive testimony on the importance of this MUPDD application being consistent with the Town's comprehensive plan. I identified a multitude of comprehensive planning documents since the 1980s that guide us to the seasonal resort development plan presently before you. The most important of which is the East Quogue Land Plan & GEIS. If you recall that plan was prepared by the Town Board and its consultants after a 2 ½ year moratorium. The study developed a recommended land use plan and the accompanying GEIS analyzed cumulative and site specific impacts and no less than eleven (11) different land use alternatives.

As previously noted, the EQ Land Plan & GEIS was developed with significant public participation and was adopted after careful deliberation of the alternatives. The recommended

plan indicates that The Hills property should be rezoned utilizing the PDD process into a mixed use proposal that combines housing, a golf course, and open spaces uses.

I forwarded a copy of the Town Board's SEQRA Findings Statement filed in connection with the GEIS. In the SEQRA Findings Statement, the Town Board certified that "consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the East Quogue GEIS is one that avoids or minimizes adverse environmental effects to the maximum extent practicable." (see Findings Statement, p.18)

As the Recommended Plan specifically recommends the proposed seasonal resort development and golf course coupled with the upzoning of the property, it is important to understand what other alternatives the Town Board considered.

As mentioned, in addition to Recommended Plan, the Town Board considered eleven (11) different alternatives, including: the Zoning Build-Out Alternative, where each property is developed under the prior zoning. The Town Board also considered an Upzoning Alternative with no other actions; a Workforce-Senior Housing Alternative; a Hamlet Transfer of Development Rights Upzoning Alternative, where development rights would be transferred to the Atlanticville site; and an alternative with the Recommended Plan with the Upzoning but without a Golf Course.

After careful study of these 11 alternatives, the Town Board found that the Recommended Plan (i.e. upzoning with a golf course) "would result in the least overall impacts on the study area as compared to the alternatives considered, by introducing the least amount of housing units and students." (see Findings Statement, p.13)

So, based upon these findings, we are here today to procedurally consider the site specific impacts of the seasonal resort development plan with a golf course as recommended by the EQ Land Plan and its reasonable alternatives.

I mention this as we heard several comments at the last public hearing suggesting that the DEIS does not consider all of the reasonable alternatives, including a reduced density alternative, or an alternative without a golf course, or a proper as-of-right alternative. This is just not accurate. Not only were these alternatives considered in the EQ Land Plan & GEIS, but as required by the Town Board's scoping document, the DEIS before you addresses seven (7) different alternatives including again a reduced density plan, a plan with no golf course, as well as the as-of right or full build-out development under the current zoning for each of the separate properties.

As you know, the SEQRA regulations require the DEIS describe the "range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor." (see 6 NYCRR 617.9(5)(v)).

The Courts have noted, that the alternatives section of an EIS "need not identify or discuss every conceivable alternative, and need not be exhaustive, where as here, the various options lie along a continuum of possibilities" see *Matter of Halperin v. City of New Rochelle*, 24 AD3d 768, 809 NYS2d 98 (App. Div. 2nd Dept., 2005).

Moreover, "it is not the function of SEQR or any agency in our economic system to dictate what use must be made of private property even though it may restrict usage on accepted principles." see *Ecology Action v. Van Cort*, 99 Misc.2d 664, 417 NYS2d 165 (Sup. Ct. Tompkins Cty. 1979). SEQRA requires the proposed project to be compared to the as-of-right or full build-out scenario as a worst case analysis.

One of the commenters at the last meeting presented a plan, which to my knowledge was not submitted to the record that showed development with an arbitrary reduction in density clustered on tiny lots with no golf course. Of course, we can all acknowledge that such a plan may on paper be possible, but under the circumstances, this plan cannot be considered feasible

considering the objectives and capabilities of the project sponsor.

Discovery Land has made it abundantly clear that the primary purpose of this project is to create a seasonal resort development and golf course that will be environmentally sensitive while providing economic growth and minimize fiscal impacts as recommended by the Town's Comprehensive Plan.

The EQ Land Plan & GEIS and the DEIS both identify and discuss the negative impacts of developing the properties under the current zoning, without a golf course, without the seasonal nature of the project, and without any of the numerous public benefits and amenities that can only come with the approval of this PDD application.

If for any reason the Town Board does not believe that the proposed seasonal resort development plan and golf course complies with its Comprehensive Plan, then Discovery Land remains committed to the development of the properties in the manner that will remain economically feasible. As presented in the DEIS, such plans include development of clustered subdivisions with one-acre lots like The Pines and Rosko subdivisions, which have been routinely approved by the Planning Board and Pine Barrens Commission. Such, developments, although less desirable, are real marketable options and are duly addressed in the EQ Land Plan & GEIS and the DEIS as reasonable alternatives. Development plans to a lesser standard as suggested by the commenters' plan would just not be feasible, economically or environmentally.

(if time permits)

Another comment raised was that the DEIS does not consider a reduction in density. This is not accurate either. The Town Board by adoption of the EQ Land Plan & GEIS obtained a significant reduction in density for the project. Prior to the adoption of the EQ Land Plan & GEIS, the potential build-out of the hamlet was estimated to be 390 new dwellings of which 163 originated from the combined properties of The Hills, Kracke and Parlato. Upon adoption of the Recommended Plan, which included the upzoning, the potential build-out density dropped from 390 to 321 units or by 17.7%. The potential build-out density on the combined properties of The Hills, Kracke and Parlato, however, was reduced by 27.6% from 163 to 118 units. Thus, the Recommended Plan and the alternatives considered in the GEIS imposed a greater reduction of density on The Hills properties than other properties in the study area. Nonetheless, the DEIS also addresses a reduced density alternative and Discovery Land is prepared to address the Town Board's consideration of the issue.

As an aside, with additional open space acquisitions since 2008, the Town Board has further reduced the potential build-out density in the hamlet from 390 to 236 units or by about 40%.
