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Subject: 3-4830-00062_00003 (DA) SEQR REVIEW
Date: August 17, 2020 at 3:04:34 PM EDT
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Richard Robbins, Chairman
Town of Forestburgh Planning Board
332 King Road
Forestburgh, New York 12777

RE: Forestburgh Pond Subdivision - Intersection of NYS
Route 42 and County Road 48
Town of Forestburgh, Sullivan County
DEC Facility ID# 3-4830-00062/00003
SEQR Lead Agency Designation

Dear Chairman Robbins:

The New York State Department of Environmental Conservation (Department or DEC) has reviewed the State Environmental Quality Review (SEQR) Notice of Intent to Serve as Lead Agency submitted by the Town of Forestburgh Planning Board for the above-referenced project. According to the submitted information, the project

consists of a 21-lot subdivision at the above-referenced property. The provided information indicates that no construction is proposed at this time, however, these proposed parcels may be used for residential and/or recreation purposes in the future.

The DEC has no objection to the Town of Forestburgh Planning Board serving as lead agency for this project. Based upon our review of your inquiry received by this office on July 2, 2020, the Department offers the following comments:

PROTECTION OF WATERS

The following waterbodies are located within or near the site you indicated:

Name	Class	DEC Water Index Number	Status
Black Brook	B(T)	D-10-11	Protected
Tributary of Black Brook	B(T)	D-10-11-P 83-1	Protected
Tributary of Black Brook	B(T)	D-10-11-P 84-1	Protected
Tributary of Black Brook	B(T)	D-10-11-P 83 - 2	Protected

Tributary of Black Brook (Forestburgh Pond)	B(T)	D-10-11-P 83	Protected, Navigable
Tributary of Black Brook (Trout Pond)	B(T)	D-10-11-P 84	Protected

A Protection of Waters permit is required to physically disturb the bed or banks (up to 50 feet from stream) of any streams identified above as “protected.” A Protection of Waters permit is required for any excavation or filling below the mean high-water line of any waterbodies and contiguous wetlands identified above as “navigable.”

A time restriction may be required for protection of cold-water trout fisheries (waters classified under Article 15 of the Environmental Conservation Law (ECL) with a “T” or “TS” designation), beginning October 1 and ending April 30.

If a permit is not required, please note, however, you are still responsible for ensuring that work shall not pollute any stream or waterbody. Care shall be taken to stabilize any disturbed areas promptly after construction, and all necessary precautions shall be taken to prevent contamination of the stream or waterbody by silt, sediment, fuels, solvents, lubricants, or any other pollutant associated with the project.

FRESHWATER WETLANDS

Your project site is near or in Freshwater Wetlands HA-44 and HA-45, Class 2. A Freshwater Wetlands permit is required for any physical disturbance within these boundaries or within the 100-foot adjacent area. To have the boundary delineated, please contact Mike Fraatz, Bureau of Ecosystem Health, at (845) 256-3057 or at michael.fraatz@dec.ny.gov.

WATER QUALITY CERTIFICATION

The project site appears to contain federally-regulated wetland areas. If the United States Army Corps of Engineers (ACOE) requires a permit for work completed in or impacting a federal wetland or waters of the U.S., you will need a Section 401 Water Quality Certification from the Department. Please contact the ACOE at (917) 790-8411 for a determination.

ENVIRONMENTAL REMEDIATION

An environmental investigation report titled “Firing Lane Investigation Report,” prepared by Keystone Associates and dated June 23, 2020, was included in the submitted project documents. The report summarized the findings of a limited soils investigation conducted at the subject property. According to the report, the property had historically operated as a firing range dating back to the 1930’s. Soil samples were collected and analyzed to investigate the extent of potential lead contamination associated with historic firing lane operations.

Shooting ranges frequently exhibit potentially hazardous levels of lead in the soil, and should be considered as part of planning the proposed development. If lead-contaminated soils will be disturbed or treated, additional approvals may be required. Please see the attached document, "Shooting Range Guidance," for technical information regarding lead-impacted soils. Additional approvals may be required by the New York State Department of Health (NYSDOH). For additional information, please contact Glenn Illing, NYSDOH, at glenn.illing@health.ny.gov.

STATE-LISTED SPECIES

The DEC has reviewed the State's Natural Heritage records. No records of sensitive resources were identified by this review.

The absence of data does not necessarily mean that rare or state-listed species, natural communities, or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

STATE POLLUTION DISCHARGE ELIMINATION SYSTEM (SPDES) CONSTRUCTION

The project narrative appears to include only the subdivision of the subject property. Development of the proposed subdivided parcels is not proposed at this time. Please note that for future development of the parcel, if the overall project will disturb one or more acres of land the project sponsor must obtain coverage under the current SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001) and develop a Stormwater Pollution Prevention Plan (SWPPP) that conforms to requirements of the General Permit.

DAMS

The Forestburgh Pond Dam, DEC Dam ID # NY12761, hazard code A, is located on-site. The requirement of a permit pursuant to 6 NYCRR Part 608.3 does not apply to the following:

The construction, reconstruction, repair, breach or removal of a dam that has a height less than 15 feet, and a maximum impoundment capacity of less than three million gallons.

This dam's maximum impoundment capacity exceeds the above-referenced threshold. Therefore, any work performed on the dam that is not deemed "ordinary maintenance" as defined in 6 NYCRR Part 608.1 would require a Dam Safety Permit under Article 15 of the Environmental Conservation

Law (ECL). The project narrative includes repairs to this dam as part of the proposed project. For technical information regarding this dam, please contact Warren Shaw, NYSDEC Dam Safety, at warren.shaw@dec.ny.gov.

CULTURAL RESOURCES

We have reviewed the statewide inventory of archaeological resources maintained by the New York State Museum and the New York State Office of Parks, Recreation, and Historic Preservation. These records indicate that the project is located within an area considered to be sensitive with regard to archaeological resources. The project sponsor should submit project materials to the New York State Historic Preservation Office's online Cultural Resource Information System (CRIS) to initiate the review process. Information on submitting to the system and access to it are available at <http://www.nysparks.com/shpo/>.

OTHER

Other permits from this Department or other agencies may be required for projects conducted on this property now or in the future. Also, regulations applicable to the location subject to this determination occasionally are revised and the project sponsor should, therefore, verify the need for permits if your project is delayed or postponed. This determination regarding the need for permits will remain effective for a maximum of one year. More information about DEC permits may be found on our website, www.dec.ny.gov, under "Regulatory" then "Permits and Licenses." Application forms

may be downloaded at <http://www.dec.ny.gov/permits/6081.html>.

Please contact this office if you have questions regarding the above information. Thank you.

Sincerely,

Christina Pacella

Division of Environmental Permits

Region 3, Telephone No. (845) 256-2250

Attached: Shooting Range Guidance

cc: Mike Fraatz, NYSDEC Bureau of Ecosystem Health

Warren Shaw, NYSDEC Dam Safety

Glenn D. Illing, NYSDOH

Kelly VanDerVliet, NYSDOH

Ryan Gain, NYSDOH

Brian Orzel, ACOE

Sullivan County DOH

Glenn Smith, Town Engineer

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