

**\*\*\*\*\*DRAFT\*\*\*\*\***

The Town of Forestburgh Town Board held their regular monthly meeting on **Thursday, February 2, 2023**, at the town hall.

Supervisor Hogue called the meeting to order at 6:00 p.m.

Roll Call – Present – Daniel S. Hogue, Jr., Supervisor  
Karen Ellsweig, Councilperson  
Steve Budofsky, Councilperson  
Susan Parks-Landis, Councilperson  
Vincent C. Galligan, Jr., Councilperson

Absent – None

Recording  
Secretary – Teresa Collins, Deputy Town Clerk

Others  
Present — Troy Johnstone, Esq. – Attorney for the town  
Richard Robbins, Planning Board Chair

**PUBLIC COMMENT** – None

**MINUTES** – January 2023 Minutes

MOTION by Councilperson Budofsky, seconded by Councilperson Landis  
Councilperson Galligan abstained. Vote: 4 ayes – 1 nay. Motion carried.

**GENERAL FUND VOUCHERS 2023** - # 5-30 in the sum of \$37028.10 as set forth in abstract #2 were audited for payment. MOTION by Councilperson Landis, seconded by Councilperson Budofsky  
Vote: 5 ayes – 0 nay. Motion carried.

**HIGHWAY FUND VOUCHERS 2023** - #1-9 in the sum of \$37,007.90 as set forth in abstract # 2 were reviewed. MOTION by Councilperson Budofsky, seconded by Councilperson Ellsweig to accept the highway fund vouchers. Vote: 5 ayes - 0 nays. Motion carried.

**ESCROW FUND VOUCHERS** - in the sum of \$125 as set forth om abstract #2 were reviewed.  
MOTION by Councilperson Landis, seconded by Councilperson Budofsky.  
Vote: 5 ayes – 0 nays. Motion carried.

**CORRESPONDENCE**

Good evening Mr. supervisor and fellow board members,

My name is Day. I have a home in Forestburgh and have fished the surrounding lands for over 50 years or perhaps better said over ½ of a century. I am late to the current conversation surrounding the Lost Lake development, but what I have heard truly disturbs me. This development is located in the Delaware water shed and is rumored to pump up to 1 billion of “treated” sewage through their system. The water will proceed to Stephen Crane pond area named for the writer of the Red Badge of Courage and then down the Bushkill stream into the Neversink River. The Bushkill is near and dear to me. It has a healthy population of native Brook Trout. Brook trout need pure clean water, cold water, and the correct Ph for them and their food source (may flies, caddis and stone flies) to survive. The Trout can’t protect themselves, but we can. There are laws, regulations and a permitting processes in place to make sure the environment is protected. It seems to me that they are not being followed correctly. Everyone knows how much work it requires to get permission to build one home. We probably don’t like the process, but it’s the law so we abide by it. A large developer should hold those laws to even a higher standard, which does not seem to be the case with Lost Lake. Your job, our job, is to enforce the law and regulations to protect what cannot protect themselves. This current situation is like a disturbed Bee’s nest. One bee comes out, then another and before you know it a swarm comes out to protect the nest and the Queen. This developer by the way they have acted just stirred up the Bee’s nest of multiple people and organizations, which will represent our environment.

Tight Lines.

Justin Evans on behalf of the Hartwood Club Board of Trustees  
165 Baer Road - homeowner for 20 years - Forestburgh resident for 46 years

I want to talk about Lost Lake.

The ZBA ruling on November 15th effectively declared this project dead. The developer never appealed the ruling. However, since then, the developer and his associates have continued to build significant infrastructure illegally without any approvals from the lead SEQR agency, without any valid regulatory permits, through wetlands, and despite Stop-Work notices, despite DEC Violations Notices, and on and on and on.

At the same time, he uses aggressive intimidation tactics to scare and silence you. He files the most ridiculous frivolous lawsuits claiming widespread religious animus and discrimination. His fictional narrative makes for salacious news headlines. Make no mistake, this is intimidation and a distraction. The real issues here are pollution, density, and money. This developer has a group of investors who want to maximize their rate of return. He knows this has absolutely nothing to do with religion. It's disgusting what's he's willing to say and do, for money.

The Hartwood Club is a lake community owned by 65 diverse member families, and has been in the land collection, preservation, and conservation business for the past 130 years.

Our community and our neighbors lie immediately downstream of the sewer plant this developer is racing to build for his Frankenstein version of the original Lost Lake project. Our analysis shows, that this plant will eventually dump nearly a Billion gallons of sewer effluent annually, directly into Stephen Crane Pond, the Bushkill, and down into the Neversink river, right at the Paradise bridge, Vinny. That pristine stretch of water is a blue ribbon trout stream that is quite literally the birthplace of fly-fishing in America.

This developer is out of control and operating way outside of the law.

You took an oath to protect the town and to uphold the law. We insist that you honor your oath and hold this rogue developer accountable and within the law. Thank you for your service and thank you for your consideration in this matter.

## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, Bureau of Habitat, Region 3  
21 South Putt Corners Road, New Paltz, NY 12561-1620  
P: (845) 256-2227 | F: (845) 255-4659  
[www.dec.ny.gov](http://www.dec.ny.gov)

### NOTICE OF VIOLATION

Certified Mail, Return Receipt Requested # 7021 2720 0003 3058 0930

December 22, 2022

Lost Lake Holding LLC.  
991 Willoughby Avenue Suite 200  
Brooklyn, NY 11211  
Attn: Moredechai Halberstam

Re: Violations of Environmental Conservation Law Article 24 Freshwater Wetland  
New York State Freshwater Wetland HA-40  
Lost Lake Resort, Town of Forestburgh, Sullivan County

Dear Mr. Halberstam:

On November 14, 2022, New York State Freshwater Wetland Permit 3-4830-00061/00002 for the development know as Lost Lake Resort in the Town of Forestburgh, Sullivan County expired.

During a site visit with Jack Gold and Yehuda Miller on December 19, 2022, Department staff observed construction of an elevated road that crosses Freshwater Wetland HA-40 without a valid permit. Notably, the location of the road approximates the location identified as Crossing 2 on the plans associated with the expired permit. The construction activity observed include (i) the deposition of fill material by dump trucks to raise the existing footprint of the elevated road, (ii) the grading of the elevated road and crossing to redistribute soil brought to raise the final elevation of the elevated road, and (iii) construction of the road.

The construction activity described above without a valid permit is a violation of Environmental Conservation Law (ECL) § 24-0701(1) and 6 NYCRR 663.4.

ECL § 71-2303(1) provides in pertinent part that any person who violates any provision of ECL Article 24 or any rule or regulation promulgated pursuant thereto shall be liable for a civil penalty not to exceed \$11,000.00 for every such violation and may be directed to cease such violation and restore the affected freshwater wetland to its condition prior to the violation.

You are directed to immediately cease continued construction of the crossing within the New York State Regulated Wetland HA-40 and the 100 foot Adjacent Area, with the exception of stabilizing the area to prevent additional violations of Environmental Conservation Law. Please submit a plan no later than seven (7) days from receipt of this notice to Brian Drumm at [brian.drumm@dec.ny.gov](mailto:brian.drumm@dec.ny.gov) and Michael Fraatz at [michael.fraatz@dec.ny.gov](mailto:michael.fraatz@dec.ny.gov) that outlines the



activities required to stabilize the site in order to prevent disturbed soil and fill material from eroding into the stream and wetland which could be considered additional violations.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Drumm", with a stylized, cursive script.

Brian Drumm  
Manager, NYSDEC Region 3  
Bureau of Ecosystem Health

cc: Natalie Browne, NYSDEC Region 3 Division of Water  
Rebecca Crist, NYSDEC Region 3 Division of Environmental Permits  
Michael Fraatz, NYSDEC Region 3 Bureau of Ecosystem Health  
Brian Orzel, U.S. Army Corps of Engineers New York District  
Kevin Young, Esq.

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Division of Water, Region 3  
100 Hillside Avenue, Suite 1W, White Plains, NY 10603  
P: (914) 803-8157 | F: (914) 428-0323  
[www.dec.ny.gov](http://www.dec.ny.gov)

October 13, 2022

Mordechai Halberstam  
Lost Lake Management Corp.  
991 Willoughby Avenue, Suite 200  
Brooklyn, NY 11211

RE: Erosion and sediment controls at Lost Lake Resort  
947 Cold Spring Road, Town of Forestburgh

Dear Mr. Halberstam:

An inspection of the above referenced site was performed on August 25, 2022 in response to a complaint to evaluate compliance with Article 17 of the Environmental Conservation Law (ECL). The site was toured with Yehuda Miller of Lost Lake Management Corp., Jim Bates of Ecological Associates and Michael Fraatz of NYSDEC.

Two sediment traps and three sediment basins were inspected during the inspection. All of these sediment controls were constructed incorrectly. You should immediately have a P.E. review the current Stormwater Pollution Prevention Plan (SWPPP), make any necessary modifications to the SWPPP, and re-construct the ponds in accordance with New York Standards and Specifications for Erosion and Sediment Control.

The lack of erosion and sediment controls may lead to a contravention of water quality standards in the receiving water, a violation of 6 NYCRR Part 702.3 and Article 17 of the ECL. Violations of the ECL are subject to fines up to \$37,500 per violation per day.

Your cooperation in operating and maintaining this site, and the protection of New York's waters is expected. If you have any questions, please contact me at (914) 803-8136.

Sincerely,

*Natalie Browne*

Natalie Browne  
Environmental Program Specialist



STOP WORK order  
posted at site on 1/1/23



TOWN OF FORESTBURGH  
872 Kip Road  
Forestburgh, New York 12737

Tel: (845) 754-0611  
Fax: (845) 754-0878

January 27, 2023

Lost Lake Holdings, LLC  
991 Willoughby Ave, #200  
Brooklyn, NY 11221

COPY

ROSE IMPROVEMENT, INC.  
14 Ralph Blvd.  
Monsey, NY 10952

Re. Lost Lake Resort Lot 301 – Stop Work and Compliance Order  
S/B/L 3.C-6-5  
Permit No. BP2020-0582

Dear Applicant(s):

As you know, a STOP WORK Order was issued for all construction activities previously authorized under Building Permit BP2020-0582 related to Lot 301. The STOP WORK Order was issued because Building Permit BP2020-0582 expired on November 18, 2022 under Town Code § 68-4 (I).

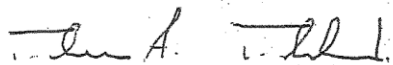
Corrective Action Required / Order of Compliance

You are required to take the following corrective action: Schedule a site inspection of the Property. Such inspection must be completed on or before February 15th, 2023. To schedule an inspection, send a written request to [forestburghcodes@gmail.com](mailto:forestburghcodes@gmail.com).

After the inspection is complete, the Town Building Department will determine whether additional corrective actions are necessary. At minimum, Town Code § 68-4 (I) requires that a building permit which has expired may, for good cause, be renewed for an additional twenty-four-month period upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

Take Notice: Pursuant to Town of Forestburgh Code § 68-15 (C) in addition to all other civil or criminal penalties and sanctions authorized by law, any person who violates this Order or any other provision of applicable state or local law shall be liable to a civil penalty of not more than \$200.00 (two hundred and 00/100 dollars) for each day or part thereof during which such violation continues.

TOWN OF FORESTBURGH, BUILDING DEPARTMENT

By:   
Glenn Gabbard, Code Enforcement Officer



## UNFINISHED BUSINESS

DASNY GRANT – As per Councilperson Ellsweig, the Board has decided to use the extra money from the grant to purchase a gazebo.

PLANNING BOARD ATTORNEY- Chairperson Richard Robbin, Katherine Barnhart, Councilperson Landis, and Councilperson Ellsweig had a zoom interview for a new attorney. Traveling was a concern but the attorney agreed to zoom and to travel when it absolutely needed for meetings. Supervisor Hogue Motion: 2023 for the firm Feerick Nugent, MacCartney LLC as needed for the Planning and Zoning Board, Seconded by Councilperson Ellsweig. Vote: 5 ayes – 0 nays. Motion carried.

## NEW BUSINESS

UNDATED ZONING REGULATIONS – Since there was numerous concerns Supervisor Hogue Motion to cancel the public meeting for February 16 and replace it with another board workshop on February 16 at 6PM at Town Hall. Vote: 5 ayes – 0 nays. Motion carried.

## REPORTS – BOARD MEMBER COMMENTS

### Town of Forestburgh Highway Department

#### February 2023 Highway Report

##### Members of the Town Board

##### Winter HOURS

Winter hours will remain 7:00 am to 3:30 pm, Monday through Friday.

##### Winter

Some winter reminders:

- Sand will be available outside the town barn for town residents only. Keep in mind to leave the shovel for other residents. Our last one was taken.
- Snow, when plowed by residents or contractors, should be kept off the roadway and cleaned up. When left in the road it can harden and freeze and cause damage to a car or plow. The resident may be subject to a fine.
- Residents are asked to keep their garbage cans off the road so that they are not hit by our plows.
- Residents who may need assistance loading sand into their vehicles, contact the highway department.
- Checking roads while the weather been good.
- Got a head start on stone for this year's paving.

Let me know if you have any further questions or concerns.

Thank you



Joseph Ruggeri  
Highway Superintendent  
January 3, 2023

VACANCIES – We are currently still looking for a ZBA Secretary.

**Planning Board** – Chairman Richard Robbins, there were two matters that were handle on their regular meeting. One on lot line change on Forestburgh Pond and other on a two-lot subdivision. There were also discussions on zoning code rewrite that a report was file with supervisor Hogue.

**Fire Department** – Jim Steinberg, for the Town of Forestburgh there were 158 calls in 2022 and 10 in 2023.

**EXECUTIVE SESSION** – MOTION by Supervisor Hogue, to enter into executive session, for the purpose of Union contract and Litigation and will like to further invite Troy Johnstone Attorney for the town, Richard Robbins for zoom purposes and Teresa Collins Deputy Town Clerk at 6.36 P.M.

**MOTION** by Supervisor Hogue to leave executive Session at 7:20P.M.

**MOTION** by Councilperson Ellsweig to adopt a resolution for Supplemental Environmental Review and Authorizing Legal Action Against the Owners of the Lost Lake Resort Property Located on Cold Spring Road, town of Forestburgh, seconded by Councilperson Landis to reconvene into regular session at 7.20 P.M.

## **Town of Forestburgh**

### **RESOLUTION 2023-02**

#### **Requiring Supplemental Environmental Review and Authorizing Legal Action Against the Owners of the Lost Lake Resort Property Located on Cold Spring Road, Town of Forestburgh**

**Dated: February 2, 2023**

At a meeting of the Town Board of the Town of Forestburgh, Sullivan County, New York, held at the Town Hall, 332 King Road, Forestburgh, N.Y., on the 2nd day of February, 2023:

Councilperson Ellsweig offered the following resolution and moved for its adoption:

WHEREAS, in September of 2008, Double Diamond Inc. ("Double Diamond") proposed to develop a planned resort and residential community on approximately 2,100 acres located in the Town known as the Lost Lake Resort ("Resort Project");

WHEREAS, Double Diamond proposed to construct a resort development consisting of a gated community of over 2,600 building lots, an 18-hole championship golf course, a clubhouse, hotel, restaurant, conference center, spa, swimming facilities, tennis facilities, wilderness trails, and other resort amenities;

WHEREAS, the Resort Project application was subject to review under the State Environmental Quality Review Act ("SEQRA"), including the preparation of a Draft Environmental Impact Statement ("DEIS"), a Final Environmental Impact Statement ("FEIS"), and a SEQRA Findings Statement;

WHEREAS, the Town Board's review under SEQRA was based on the resort development proposed by Double Diamond, including representations made by Double Diamond that the project was intended for primarily a second-home and non-resident population for weekend and vacation use and that the developer would not build single-family homes but rather sell vacant lots to individuals;

WHEREAS, the SEQRA Findings Statement for the Resort Project included enforceable terms, restrictions, and mitigation measures specifically tailored to mitigate or avoid impacts arising from the Resort Project as proposed by Double Diamond;

WHEREAS, after completing environmental review under SEQRA and adopting the Finding Statement, the Town Board granted PDD approval to the Resort Project by resolution dated August 4, 2011 ("2011 PDD Approval"), and granted conditional final site plan and subdivision approval for the first of seven project phases by resolution on June 25, 2013 ("2013 Conditional Final Approval");

WHEREAS, the 2011 PDD Approval and 2013 Conditional Final Approval were expressly conditioned on compliance with the specific mitigation measures considered in the DEIS / FEIS, and incorporated into the SEQRA Findings Statement;

WHEREAS, in June of 2020, Double Diamond sold the Project to Lost Lake Holdings, LLC and Mishconos Mazah, LLC (collectively "Developer") without having completed the infrastructure improvements;

WHEREAS, Developer sought and was initially issued building permits for Resort Project Lots 301 and 302 but the Lot 302 permit was later revoked;

WHEREAS, in June of 2021, Developer applied for a building permit to construct a single-family residential dwelling on Resort Project Lot 303;

WHEREAS, on November 23, 2021, the Building Inspector denied Developer's Lot 303 building permit application on the basis that Developer's intended housing development was inconsistent with the Resort Project approval conditions, terms and restrictions;

WHEREAS, Developer appealed the Building Inspector's decision to the Town Zoning Board of Appeals ("ZBA");

WHEREAS, Developer's appeal was subject to a formal evidentiary hearing and included six days of witness direct and cross-examination testimony at which the ZBA developed an extensive record;

WHEREAS, by decision dated November 15, 2022, the ZBA issued a comprehensive 36-page ruling affirming the Building Inspector's denial and finding that Developer's intent to construct and sell housing units based on Developer's own design specifications is inconsistent with and materially different from the Resort Project approval conditions, terms and restrictions that authorized Double Diamond to sell vacant lots to individual owners who would build single-family homes in accordance with the design specifications and requirements approved by the Town and incorporated into the SEQRA Findings Statement;

WHEREAS, the PDD Local Law requires that project approvals and its conditions, terms and restrictions may not be modified or amended without reassessment of impacts under SEQRA and Town Board approval;

WHEREAS, despite the ZBA Ruling, Developer continued with construction activities on the Lost Lake Resort Property;

WHEREAS, on January 1, 2023, the Building Inspector issued a stop work order requiring Developer to cease construction on Lot 301;

WHEREAS, on February 1, 2023, the Building Inspector issued a stop work order and notice of violation related to Developer's continued infrastructure construction activities;

WHEREAS, the Town is authorized under New York State Town Law to maintain an action or proceeding in the name of the Town to enforce its local laws and zoning regulations.

**NOW THEREFORE BE IT RESOLVED** that the Town Board finds that Developer's changes and modifications to the Resort Project as fully detailed in the ZBA's November 15, 2022 Decision constitutes "changes in the project" or "a change in the circumstance" as those terms are used in 6 NYCRR § 617.9 (a) (7) and therefore Developer will be required to prepare a supplemental environmental impact statement and obtain approvals for such modifications as required under PDD Local Law § 85-19 (B) (2), and other applicable law or regulation;

**BE IT FURTHER RESOLVED** that all Town issued permits and approvals, including the Resort Project's 2011 PDD Approval and 2013 Conditional Final Approval are hereby suspended and any construction or land disturbance activities permitted thereunder are no longer authorized unless and until Developer submits its proposed changes to the Town Board to undergo additional review under SEQRA, and obtain necessary and appropriate modifications to the terms and conditions of the Project Approvals;

**BE IT FURTHER RESOLVED** that the Town Clerk shall provide notice and a copy of this Resolution to all interested and involved parties identified in the Resort Project DEIS and shall make the Resolution accessible on the Town's website;

**BE IT FURTHER RESOLVED** that Harris Beach, PLLC, as Special Counsel for the Town of Forestburgh, is authorized to institute legal action or proceeding in the name of the Town of Forestburgh and the Town Board against the owners of the Lost Lake Resort Property and/or any related party, in Supreme Court of the State of New York to compel compliance with or to restrain by injunction the violation of any applicable Town Code, local law, ordinance, rule or regulation; and to prevent, restrain, correct or abate such violation; and to prevent any illegal act, conduct, business or use in or about such the Property.

**BE IT FURTHER RESOLVED** that Special Counsel is hereby vested with the discretion to seek monetary and/or punitive damages, injunctive relief, including restraint or specific performance, and/or permanent, preliminary or temporary injunctive relief.

On a motion by Councilperson Ellsweig, seconded by Councilperson Landis, the resolution was adopted on a roll call vote, the results which follow:

Supervisor Daniel S. Hogue, Jr.	Aye
Councilmember Steven Budofsky	Aye
Councilmember Karen Ellsweig	Aye
Councilmember Vincent Galligan	Aye
Councilmember Susan Parks-Landis	Aye

**Adopted this 2nd day of February 2023.**

**By Order of the Forestburgh Town Board**

**Teresa Collins, Deputy Town Clerk**

I, **TERESA COLLINS**, Deput Town Clerk of the Town of Forestburgh, Sullivan County, New York, **DO HEREBY CERTIFY** that the foregoing local law was approved by the Town Board of the Town of Forestburgh on **February 2, 2023**, and that the foregoing is a true and correct transcript of the original local law and of the whole thereof and that said original local law is on file in the Town Clerk's office.

**I DO FURTHER CERTIFY** that each of the members of the Town Board had due notice of the said Town Board meeting.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of the Town of Forestburgh this 2nd day of February 2023.

  
Teresa Collins, Deputy Town Clerk



**MOTION** by Councilperson Budofsky to adjourn regular session and reconvene executive sessions at 7:31 p.m.

**EXECUTIVE SESSION** – NO business conducted.

**ADJOURNMENT** – MOTION by Councilwoman Landis to adjourn at 8:30 p.m.

Respectfully submitted,

Teresa Collins  
Deputy Town Clerk