

# **Town of Forestburgh**

## **RESOLUTION 2024-05-\_1\_**

### **Regarding Effect of Local Law 3 of 2023 on the Lost Lake Resort Project Located on Cold Spring Road, Town of Forestburgh**

**Dated: May 2, 2024**

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 May, 2024:

Councilperson \_\_\_\_\_ 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 known as the Lost Lake Resort (“Resort Project”) on approximately 2,100 acres located on Cold Spring Road, Town of Forestburgh (“Project Site”);

WHEREAS, Double Diamond proposed to construct a resort development consisting of a gated community of over 2,600 vacant 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, in furtherance of the Resort Project, Double Diamond applied for a rezoning of the Project Site from a residential-recreation zoning district (RR) to a planned development district (PDD) created under Local Law 3 of 2008 (adopted July 3, 2008) (“2008 PDD Regulations”);

WHEREAS, under Local Law 3 of 2011 (adopted July 7, 2011) (“2011 PDD Regulations”), the Town Board amended the then existing 2008 PDD Regulations to provide for the additional density allowances that Double Diamond requested;

WHEREAS, after adopting the 2011 PDD Regulations, the Town Board granted PDD approval to the Resort Project by resolution dated August 4, 2011 (“2011 PDD Approval”), thereby rezoning the Project Site from an RR zoning district to a PDD;

WHEREAS, the Town Board granted Double Diamond preliminary site plan and subdivision approval for the first of seven project phases by resolution dated February 28, 2012;

WHEREAS, the Town Board 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, under Local Law 2 of 2017 (adopted March 2, 2017), the Town Board amended the 2011 PDD Regulations, which delegated PDD review and approval authority to the Planning Board;

WHEREAS, under Local Law 1 of 2020 (adopted January 9, 2020), the Town Board repealed the PDD laws of 2008, 2011, and 2017, thereby eliminating planned development districts from the Town Zoning Code;

WHEREAS, while Local Law 1 of 2020 eliminated the PDD as a zoning district allowable in the Town, the local law expressly stated that it had “no effect on approvals previously granted with respect to any existing Planned Development Districts” and therefore, all requirements in the 2011 PDD Regulations and amended by Local Law 2 of 2017, continued to remain applicable to the Resort Project;

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

WHEREAS, under Local Law 3 of 2023 (adopted November 2, 2023) the Town Board enacted a new Zoning Code and adopted Zoning District Map;

WHEREAS, the new Zoning District Map identifies the Project Site as a PDD as defined in § 180-4 of the Zoning Code;

WHEREAS, Zoning Code § 180-4 states:

*PDD PDD Planned Development District.* Local Law 1 of 2020 repealed the Planned Development District laws of 2008, 2011, and 2017. Planned Development Districts approved prior to the adoption of Local Law 1 of 2020 are deemed prior nonconforming uses as set forth in Article IV herein, and remain subject to all applicable regulations in Local Law 3 of 2011 as amended by Local Law 2 of 2017, and to all conditions and requirements set forth in any approvals or permits;

WHEREAS, Developer commenced an action entitled *Lost Lake Holdings LLC et al., v. Town of Forestburgh et al.*, Case 7:24-cv-00337-VB (SDNY Jan. 16, 2024), alleging, in part, that Local Law 3 of 2023 was adopted to completely block further development of the Resort Project;

WHEREAS, the Town Board maintains that Developer’s interpretation of Local Law 3 of 2023 and its impact to the Resort Project and Project Site is incorrect, as it was not the intent of Local law 3 of 2023 to block further development of the Resort Project and Project Site nor does Local Law 3 of 2023 have such an effect;

**NOW THEREFORE BE IT RESOLVED** that the Town Board hereby restates and confirms that, regardless of Local Law 3 of 2023, the Resort Project and Project Site:

- (1) is and continues to remain subject to the 2011 PDD Approval and the terms, conditions, and requirements therein;

- (2) is and continues to remain subject to the 2013 Conditional Subdivision Approval and the terms, conditions, and requirements therein;
- (3) is and continues to remain subject to all applicable 2011 PDD Regulations in Local Law 3 of 2011 as amended by Local Law 2 of 2017.

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

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

Aye – Nay – Abstain  
Aye – Nay – Abstain  
Aye – Nay – Abstain  
Aye – Nay – Abstain  
Aye – Nay – Abstain

**Adopted this \_\_\_\_ day of May 2024.**

**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 **May \_\_, 2024** 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 \_\_\_\_ day of May 2024.

\_\_\_\_\_  
Teresa Collins, Deputy Town Clerk

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TOWN SEAL

DRAFT