

Executive Orders Compliance Analysis –
Wetlands Protection (EO 11990)
& Floodplain Management (EO 11988)
Determination

Project 510-ED-33701-2013
EO 11988 Floodplain Management and EO 11990 Wetlands Protection Determination

*Commercial & Economic Development Initiative within NY State Community Development Block
Grant Disaster Recovery Program
February 6, 2017*

Introduction & Overview

The purpose of Executive Order 11988, Floodplain Management, is “to avoid to the extent possible the long- and short-term adverse impacts associated with occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” The purpose of Executive Order 11990, Protection of Wetlands, is “to avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.” This plan contains the analysis prescribed by 24 CFR Part 55.

This project involves U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Program – Disaster Recovery (CDBG-DR) funding for construction and mitigation-related activities for a single business impacted by Hurricane Irene and Tropical Storm Lee. The analysis that follows focuses on floodplain (and floodway) and wetland impacts, as there are direct wetland impacts associated with this project. Based on the type of land use and facility and other case characteristics described herein, it is concluded that there is a reasonable basis to proceed with funding for this project/activity within floodplain, floodway, and wetland. Moreover, in the [March 5, 2013 Federal Register Notice](#), HUD expressly recognized that “without the return of businesses and jobs to a disaster-impacted area, recovery might be impossible. Therefore, HUD strongly encourages grantees to envision economic revitalization as a cornerstone to a long-term recovery” (78 FR 14335). Thus, alternatives preventing or impeding small business recovery are not considered reasonable alternatives.

Description of Proposed Action & Land Use

The Lynx at River Bend Golf Club, Inc. (Applicant) is an eighteen-hole regulation golf course located on 125 acres just east of the Neversink River in the Town of Deerpark. The Subject Property street address is 87 Neversink Drive, Port Jervis, Orange County, New York 12771 Subject. Based on County Assessment data, this commercial property is Section 54, Block 1, and Lot 37. The Property Description shows a 125-acre lot. This golf course is located on the eastern shores of the Neversink River, and the Shawangunk Ridge borders the course to the southeast.

HUD Community Development Block Grant-Disaster Recovery (CDBG-DR) funding is proposed to provide the Applicant \$200,000.00 in funding for future construction and mitigation-related activities. Future construction-related activities (\$100,000.00) will involve the removal of sediment deposited by the storms from seven existing ponds and returning the ponds to pre-storm depths. The sediment from these dredging activities will then be relocated to areas on the Subject Property to repair existing golf cart paths, which were washed away during the storms, and to help create approximately sixteen naturalized areas. Aeration of all fairways will also occur, along with replanting and fertilization of portions of fairways. Mitigation-related activities (\$100,000.00) are proposed for new plantings in the new naturalized areas. The sediment from the dredged ponds will be placed at grade to allow the planting of trees, shrubs and grasses to create naturalized areas in order to avoid the need for turf repair resulting from future flooding events. All newly planted areas will be mulched. Any ground disturbance from the future funded activities will only occur in previously disturbed areas. Previous environmental reviews for separate activities categorized under 24 CFR 58.35(b)(4) for this Applicant were completed on December 19, 2016 and August 12, 2016, and are included in the Environmental Review Record.

Applicable Regulatory Procedure - EO 11988 and 11990

The proposed action corresponds with a noncritical action not excluded under 24 CFR §55.12(b) or (c). Funding is permissible for the use in the floodplain, wetland, and floodway if the proposed action is processed under §55.20 and the findings of the determination are affirmative to suggest that the project may proceed. The siting of new or substantially improved buildings or structures in floodway is only allowed under 24 CFR part 55 if it is a functionally dependent use. The project does not involve the siting of new or substantially improved buildings or structures in floodway and is not a functionally dependent use. However, this project only involves dredging, landscaping and planting at a historical golf course. The only fill that is being placed in the floodway and 100-year floodplain consists of the sediment being removed from the ponds located nearby in the same floodway area. There is no new additional fill being placed in the floodway. Furthermore, the project would restore the functionality of the floodplain by decreasing flood levels as the dredging of the ponds would increase their capacity to store stormwater runoff and the plantings of nature areas would prevent/resist erosion.

Based on online data, including data managed and updated by the U.S. Fish & Wildlife Service (USFWS) and NYSDEC, there are mapped wetlands on the Subject Property. This work will be located in 100-year floodplain (SHFA Zone AE), floodway, and within federal freshwater pond wetlands. Approximately 5.5 acres of wetlands would be disturbed, and approximately 62 acres of floodplain, of which 53 acres are within a floodway, would be disturbed. Thus, in accordance with the decision-making process set forth in 24 CFR Part 55, this analysis focuses on floodplains and wetlands.

According to 24 CFR §55, this activity planned for rehabilitation and mitigation occurs in a community that is in the regular program of the National Flood Insurance Program (NFIP) and the community is currently in good standing. Using the total amount of damage reported after Hurricane Irene and Tropical Storm Lee, this project does not exceed the substantial improvement threshold of 50% in 24 CFR §55.2(b)(10). This is evidenced by Small Business Program materials indicating that there was not a substantial damage determination and improved property value data shows the cost of funded repairs is a small fraction of the total value, which is shown to be approximately \$1,366,700.00. However, this project involves the dredging and redistribution of storm-deposited sediment returning the ponds to pre-storm depths and creating naturalized areas at grade, and the full eight-step floodplain/wetlands determination process in §55.20 is being followed. The following analysis examines each step in a floodplain management determination process.

Step 1. Determine Whether the Proposed Action is Located in the 100-year Floodplain (500-year for Critical Actions) or results in New Construction in Wetlands.

The location of the proposed action, per the applicable FEMA flood map Firmette, is within the 100-year floodplain (SFHA - AE Zone), floodway, and wetlands. There is an established Base Flood Elevation (BFE) of approximately 435-437 feet across the property. This action will impact freshwater wetlands and the project activities would not require an individual Section 404 permit under the Clean Water Act (see 55.20(a)(1)).

Step 2. Initiate Public Notice for Early Review of Proposal.

Because the proposed project is located in floodplain, floodway and wetlands, the Governor's Office of Storm Recovery (GOSR) published an early notice that allowed for public and public agency input on the decision to provide funding for reconstruction and development activities. The early public notice and 15-day comment period has closed. No public comments were received.

The early notice and corresponding 15-day public comment period started on January 18, 2017 with the "Notice of Early Public Review of a Proposed Activity in Wetlands and 100-Year Floodplain" being published in Times Herald-Record newspaper, with the 15-day period expiring on February 2, 2017. The notice targeted local residents, including those in the floodplain. The notice was also sent to the following

state and federal agencies on January 18, 2017: Federal Emergency Management Agency (FEMA); USFWS; U.S. Environmental Protection Agency (EPA); U.S. Army Corps of Engineers (USACE); NYSDEC; and New York State Office of Emergency Management. The notice was also sent to Orange County and the Town of Deerpark. (See **Appendixes 1 and 2** of this Floodplain Management EO 11988 and Wetlands Protection EO 11990 Determination for the letter distributed to these agencies and the associated newspaper notice affidavit).

Step 3. Identify and Evaluate Practicable Alternatives to Locating the Proposed Action in a 100-year Floodplain (or 500-year Floodplain if a Critical Action) or Wetland.

The program is structured to provide eligible businesses with resources and expertise to build resilience to future flooding events. This business was impacted by Hurricane Irene and Tropical Storm Lee, and the resulting flooding caused damage to the golf course grounds. Given the scope of the proposed action to dredge ponds and naturalize limited use areas, potential alternatives must be considered in order to try and mitigate the amount of damage from future flood events.

One potential alternative is to relocate the business out of the 100-year floodplain and floodway; however, the relocation of this business could pose a great hardship on the Applicant. The Lynx at River Bend Golf Club was designed and constructed in 1915 by one of the greatest American Golf Architects, A.W. Tillinghast. It is touted as being sited on a secluded 125-acre site with the majestic Shawangunk Mountains as a backdrop which is open to the public and members (<http://thelynxgolfclub.com>). The Lynx at River Bend Golf Club serves local and regional recreational and tourism demand and is a type of open land use that could be a compatible form of floodplain development. Moreover, relocation of the golf course to a new location could affect new environmental conditions at the proposed site compared to the proposal herein. As such, relocation is not considered a viable option.

An additional alternative is to increase drainage infrastructure, such as culverts, piping, pumps, or other man-made equipment on the Subject Property. However, a Phase I Master Plan, dated May 2, 2016, completed by Milone & MacBroom for The Nature Conservancy indicates that the culverts draining the golf course to the Neversink River are not able to drain the golf course even during 1.25- or 2-year storms because the outfall is blocked by elevated river stage. Moreover, golf course management indicate that much of the flooding occurs from the accumulation of stormwater runoff on the golf course. Therefore, increasing the size and/or number of drainage infrastructure on the golf course would not reduce flooding on the course.

Another alternative is for “no action” to occur, meaning the Applicant business would not be receiving grant funds towards the proposed rehabilitation and mitigation action of dredging of existing ponds to pre-storm depths and landscaping activities. The project would be impeded due to the lack of financial support and the golf course grounds might not be repaired resulting in economic loss to this business. In addition, this alternative would not support the resiliency of this business for future flooding events. Without HUD CDBG-DR funding, the Applicant would not receive funding for the repair of damages from Hurricane Irene and Tropical Storm Lee, and the business might not be able to continue its operations at the Subject Property. Accordingly, the “no action” decision would not support the business’s resilience to future storm events.

The above identified alternatives will be re-evaluated in response to public comments received.

Step 4. Identify & Evaluate Potential Direct & Indirect Impacts Associated with Occupancy or Modification of 100-year Floodplain and Potential Direct & Indirect Support of Floodplain and Wetland Development that Could Result from Proposed Action.

Floodplain Evaluation

The focus of floodplain evaluation should be on adverse impacts to lives and property, and on natural and beneficial floodplain values. Natural and beneficial values include consideration of potential for adverse impacts on water resources such as natural moderation of floods, water quality maintenance, and groundwater recharge.

According to the FEMA Report - [A Unified National Program for Floodplain Management](#), two definitions commonly used in evaluating actions in floodplain are “structural” and “non-structural” activities. Per the report, structural activity is usually intended to mean adjustments that modify the behavior of floodwaters through the use of measures such as public works dams, levees and channel work. Non-structural is usually intended to include all other adjustments (e.g., regulations, insurance, etc.) in the way society acts when occupying or modifying a floodplain. These definitions are used in describing impacts that may arise in association with potential advancement of this case.

Natural moderation of floods

As the Subject Property is one of many developed parcels situated within the 100-year floodplain, the continued occupancy might potentially result in future direct impacts to property during certain severe floods and related natural disasters. However, the direct effects to this property would be no greater than those expected to the other adjacent occupied properties within this floodplain. The proposed work is intended to provide a natural method for moderation of floods– to increase the storage ponds’ capacities to previous capacities (through dredging), create naturalized areas where there is low traffic on the golf course, and plant native vegetation in the naturalized areas.

Living resources such as flora and fauna

This land use might constitute a type of business where, after flooding, materials used in operations could potentially be released into the environment, thereby having unquantifiable potential to impact water quality maintenance and ecological resources. A potential impact that might arise is that materials used or stored on-site would be caused to be released into the environment, such as a result of wind or floodwaters. However, this would be more likely if there are not non-structural and structural floodproofing techniques in place, such as if materials are not stored in water-tight containers, and/ or said containers break or migrate out of a non-enclosed building due to lack of proper preparation. A qualitative evaluation suggests the potential would be relatively small and if such releases do occur, it is likely as part of a potential area-wide impact. In such an instance, floatable debris could contribute to litter and if there were minor amounts of chemicals used on the Subject Property, floodwaters might induce rapid dilution. Given the nature of this business, the potential for an acute or chronic level of water quality impact from the Subject Property is low.

Impacts to Property & Lives

The action does present potential to impact commercial occupancy of the floodplain, but it does not impact residential structures. The project does not alter the floodplain because it does not in any way directly or physically modify the floodplain through new ground disturbance – it only provides dredging of existing ponds to pre-storm depths and landscaping activities at grade. Moreover, supporting the recovery of small businesses is an essential component of recovery in storm-affected communities, as recognized by the [March 5, 2013 Federal Register Notice](#).

Occupancy of this floodplain and floodway in this developed area has taken place since World War II. According to Orange County’s [Multi-Jurisdictional Hazard Mitigation Plan](#), 2014, the nearby City of Port Jervis has a high vulnerability for floods, and a moderate vulnerability for hurricanes (page WT - 3). Considering the context of the area, this action represents an activity at only one parcel among others that are located within the contiguous floodplain. Thus, funding this project/ activity does constitute indirect continued support of floodplain and floodway occupancy and development for this golf course business.

In the event of severe flooding and associated natural hazards in the future, there is potential for further damage to this property, business disruption, and impacts to this small business.

The rehabilitation of the Subject Property sustains area property values and community character within a long-standing district and neighborhood. It enables continued viability of this small business, which might otherwise degrade, or cease to exist, without support in rehabilitating facilities, restarting business operations, and/or recouping some revenue lost as a result of the disaster. Similarly, the proposed investment supports the area by sustaining an asset. With sustained operations here, the market is not disrupted in that customers are required to travel greater distances. Support to sustain this business also helps ensure a diverse economic base. If this project were not funded, there probably would be other undefined, undesirable indirect impacts to lives and the area economy, on a short- and long-term basis, such as relating to economic multipliers and support that this business provides to surrounding businesses, as it purchases products and services.

Cultural resources such as archaeological, historic & recreational aspects

There are no recorded historic properties listed on or deemed eligible for the State and National Register of Historic Places adjacent to the Subject Property. The New York State Historic Preservation Office confirmed on January 3, 2017 that this project has had no affect effect on historic resources. Without support, property resources could degrade and there could be loss of development character and identity for the Club and the area.

According to the Outdoor Industry Association's two-page fact sheet [New York: The Outdoor Recreation Economy](#), outdoor recreation generates \$33.8 Billion in consumer spending and 305,000 direct jobs within the State. This is an important sector of the regional economy and the subject business is an example of a constituent part of this aspect of the economic base. It is presumed that market demand for golf course services is strong and if the service here were disrupted, consumer demand could not easily shift to other facilities because of finite supply and distance to other courses.

Agricultural, aquacultural, & forestry resources

The Orange County area has several agricultural sites located in the flood zone, as well as undeveloped woodlands. There is substantial agriculture and livestock industry in Orange County. Per the 2015 Orange County Report [Agriculture and Farmland Protection Plan](#) (2015), approximately 17% of the total acreage in Orange County is utilized as farmlands, generating approximately \$100.7 million in cash receipts in 2012. It is possible that if there is a materials release from this property, it could potentially affect natural resources including agricultural. However, while it is conceivable that flooding of a business like this could be part of a cumulative influence on such resources, the impact attributable to this use could not have been quantitatively derived, and the potential impact, with planning for and practice of non-structural management practices, is considered minor.

Wetland Evaluation

The purpose of wetland evaluation is to consider factors relevant to a proposal's effect on the survival and quality of the wetland. These factors should include public health (including water supply and water quality), maintenance of natural systems, cost increases attributed to construction in wetland, and other uses of wetland in the public interest.

Public health, safety, and welfare, including water supply, quality, recharge, and discharge; pollution; flood and storm hazards and hazard protection; and sediment and erosion.

The project location is in wetlands that are designated freshwater ponds (USFWS). These wetlands are freshwater wetlands and are drainage features on the golf course that are also used for watering the golf course. Some of the wetlands are old oxbows of the Neversink River. These areas help protect upland soil from erosion and freshwater resources by storing stormwater. The scope of work for this project will

involve dredging of portions of the freshwater ponds to pre-storm conditions. Moreover, the sediment dredged will be used to naturalize adjacent areas with native vegetation. The proposed action does not include reshaping or filling of the wetland, merely dredging the ponds to pre-existing storage capacity. The proposed action will not decrease the area of the wetlands.

Maintenance of natural systems, including conservation and long-term productivity of existing flora and fauna; species and habitat diversity and stability; natural hydrologic function; wetland type; fish; wildlife; timber; and food and fiber resources.

The proposed action does not include reshaping or filling of the wetland, but only dredging the ponds to pre-existing storage capacity. The proposed action will not decrease the area of the wetlands. Moreover, the project plans to dredge the ponds to pre-existing capacity and the naturalization of nearby areas will benefit the long-term productivity of existing and newly planted native flora. This project will increase habitat for native flora and fauna. The Applicant shall comply with all best management practices and permit conditions that are set forth in the applicable federal, state, and local environmental permits, when and as they are acquired. As the work will not decrease the area of the freshwater ponds, or wetlands, and will occur in the footprint of the existing wetlands or previously groomed golf course areas, it is presumed that there will not be new adverse impacts on the existing flora/fauna, habitat, natural hydrologic function, or natural resources at the location.

Cost increases attributed to wetland-required new construction and mitigation measures to minimize harm to wetlands that may result from such use.

The proposed scope of work only involves dredging of freshwater pond areas, that serve as drainage features on a golf course, to pre-storm capacity levels. Consequently, there are no cost increases attributed to necessary mitigation measures to minimize harm to wetlands that may result from such use.

Other uses of wetland in the public interest, including recreational, scientific, and cultural uses.

This golf course offers the public recreational access to open space and scenic water and natural views. According to the Outdoor Industry Association's two-page fact sheet [New York The Outdoor Recreation Economy](#), outdoor recreation generates \$338 Billion in consumer spending and 305,000 direct jobs within the State. This is an important sector of the regional and local economy and the subject business is an example of a constituent part of this aspect of the economic base. It is presumed that market demand for golf services is strong and if the service here were disrupted, consumer demand could not simply shift to other golf courses because of finite supply.

Step 5. Where Practicable, Design or Modify the Proposed Action to Minimize the Potential Adverse Impacts To and From the 100-Year Floodplain and to Restore and Preserve its Natural and Beneficial Functions and Values.

Given that proposed rehabilitation funded by this Program is limited, is for golf course dredging and landscaping work that does not involve its building structures, and does not rise to the level of substantial reconstruction, and considering the individual property scale, it is not financially feasible to specify mitigation measures such as elevation of buildings on the Subject Property, floodproofing, or promoting strategic retreat such as through government acquisition. However, it is reasonable to promote business owner awareness of future risks of natural hazards, including flooding, plus the physical, social and economic impacts that potential events could convey, such as through potential for future physical damage to property, buildings, supplies, and equipment.

It is reasonable to promote business owner awareness of actions they can take to define and prepare for the impacts of many hazards they might face. There are free resources available to aid such preparedness planning found at the link: <http://www.ready.gov/business>.

Step 6. Reevaluate the Alternatives and Proposed Action.

The action to fund rehabilitation, mitigation and business continuity at this small business is still practicable in light of exposure to flood hazards in the floodplain/ floodway, possible adverse impacts on the floodplain, the extent to which it may aggravate current hazards to other floodplains, and the potential to disrupt natural and beneficial functions and values of floodplains. Moreover, the [March 5, 2013 Federal Register Notice](#) strongly recommends that the grantee engage in a robust policy for ensuring small business recovery affected by the storm events, as such recovery is essential to the continued vitality of surrounding communities. Thus, alternatives preventing or impeding small business recovery are not considered reasonable alternatives.

Step 7. Issue Findings and Public Explanation.

A final notice, formally known as “Notice of Policy Determination” was published in accordance with 24 CFR 55, for a 7-day comment period. (See **Appendix 3** of this Floodplain Management EO 11988 and Wetlands Protection EO 11990 Determination for the letter distributed to the associated agencies). The 7-day comment period started with the combined Final Notice and Notice of Intent to Request Release of Funds (NOIRROF) publishing in Times Herald-Record newspaper on February 6, 2017 and the 7-day period expires February 13, 2017.

Step 8. Continuing Responsibility of Responsible Entity & Recipient.

The Governor's Office of Storm Recovery (GOSR), operating under the auspices of the New York State Homes and Community Renewal's (NYSHCR) Housing Trust Fund Corporation, is the responsible entity. The responsible entity will make available educational materials regarding best practices for businesses located in floodplains. It will also require the business to demonstrate proof of current flood insurance. It is acknowledged there is a continuing responsibility by the responsible entity to ensure, to the extent feasible and necessary, compliance with the steps herein.

Appendix 1

**Notice of Early Public Review
Floodplain Management
Executive Order 11988
&
Protection of Wetlands
Executive Order 11990**



**EARLY NOTICE OF A PROPOSED ACTIVITY
IN A 100-YEAR FLOODPLAIN AND WETLANDS**

**THE LYNX AT RIVER BEND GOLF CLUB, INC.
87 NEVERSINK DRIVE, TOWN OF DEERPARK,
ORANGE COUNTY, NEW YORK**

JANUARY 18, 2017

To: All interested Agencies, Groups, and Individuals

This is to give notice that the Governor's Office of Storm Recovery (GOSR), an office of the New York State Housing Trust Fund Corporation (HTFC), has received a request to use Community Development Block Grant – Disaster Recovery (CDBG-DR) funding from the NY Rising Small Business Recovery Program to implement repairs and mitigation at The Lynx at River Bend Golf Club, Inc. (hereinafter, the "Proposed Activity") and is conducting an evaluation as required by Executive Order 11988 and Executive Order 11990 in accordance with U.S. Department of Housing and Urban Renewal (HUD) regulations (24 CFR Part 55). There are three primary purposes for this notice. First, to provide the public an opportunity to express their concerns and share information about the Proposed Activity, including alternative locations outside of the floodplain and wetlands. Second, adequate public notice is an important public education tool. The dissemination of information about floodplains and wetlands facilitates and enhances governmental efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the government determines it will participate in actions taking place in the floodplain and wetlands, it must inform those who may be put at greater or continued risk. Funding for the Proposed Activity will be provided by the HUD CDBG-DR program for storm recovery activities in New York State.

The Proposed Activity is needed to address flooding from Hurricane Irene and Tropical Storm Lee, which resulted in sediment accumulation in wetlands (freshwater ponds) and damage to fairways and greens located in a 100-year floodplain and partially in a floodway. The Proposed Activity would involve dredging seven existing ponds, repairing the golf course, landscaping to create approximately sixteen naturalized areas, and mitigating damage from future storm events.

The Proposed Activity entails future construction-related and mitigation activities. Future construction-related activities would involve the removal of sediment deposited by storms from seven existing ponds and returning the ponds to pre-storm depths. The dredged sediment would then be relocated to areas on the property to repair existing golf cart paths, which were washed away during the storms, and to help create approximately sixteen naturalized areas. Aeration of all fairways will also occur, along with replanting and fertilization of portions of fairways. The proposed mitigation-related activities consist of new plantings in the proposed naturalized areas. Dredged sediment from the ponds would be placed at grade to allow the planting of trees, shrubs, and grasses to stabilize the natural areas reducing the need for turf repair resulting from future flooding events. Any ground disturbance from the Proposed Activity would be limited to previously disturbed areas. The Proposed Activity does not involve the siting of new or substantially improved buildings or structures in floodway and is not a functionally dependent use. However, the Proposed Activity would restore the functionality of the floodplain by decreasing flood levels as the dredging of the ponds would increase their capacity to store stormwater runoff and the plantings of nature areas would prevent/resist erosion.

The Proposed Activity would result in permanent impacts to approximately 5.5 acres of wetlands and permanent impacts to approximately 62 acres of 100-year floodplain. The permanent impacts are associated with the proposed sediment removal and repairs to existing golf course infrastructure.

Floodplain maps based on the FEMA Flood Insurance Rate Maps and wetlands maps based on the National Wetland Inventory and New York State Department of Environmental Conservation (NYSDEC) data have been prepared and are available for review with additional information at: <http://www.stormrecovery.ny.gov/environmental-docs>.

Any individual, group, or agency may submit written comments on the Proposed Activity or request further information by contacting Lori A. Shirley, Certifying Officer, Governor's Office of Storm Recovery, 38-40 State Street, Hampton Plaza, Albany, NY 12207; email: NYSCDBG_DR_ER@nyshcr.org. Standard office hours are 9:00 AM to 5:00 PM Monday through Friday. For more information, call (518) 474-0755. All comments received by February 2, 2017 will be considered.

Appendix 2

**Notice of Early Public Review Affidavit
Floodplain Management
Executive Order 11988
&
Protection of Wetlands
Executive Order 11990**

TIMES HERALD-RECORD

P.O. Box 2046, 40 Mulberry Street, Middletown, NY 10940

State of New York:
County of Orange: ss:

Elizabeth Rapalo

Being duly sworn deposes and says that the Local Media Group, Inc. is organized under the laws of the State of New York and is, at all the times hereinafter mentioned, was the printer and publisher of the Times Herald-Record, a daily newspaper distributed in the Orange, Ulster, Rockland, Dutchess, Pike, PA, Delaware and Sullivan, Counties, published in the English language in the City of Middletown, County of Orange, State of New York, that deponent is the

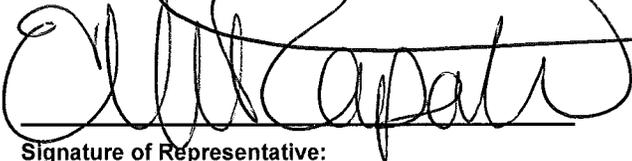
Legal Advertising Rep.

of said The Times Herald-Record acquainted with the facts hereinafter stated, and duly authorized by said Corporation to make this affidavit; that the

Public Notice

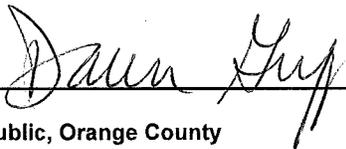
a true printed copy of which is attached, has been duly and regularly published in the manner required by law in said The Times Herald-Record in each of its issues published upon each of the following dates, to wit: In its issues of:

01/18/2017



Signature of Representative:
Elizabeth Rapalo

Sworn to before me this 18 Day of Jan 2017



Notary Public, Orange County

DAWN M. GRIFFIN
Notary Public - State of New York
NO. 01GR4832299
Qualified in Orange County
My Commission Expires July 31, 2017

**EARLY NOTICE OF A PROPOSED ACTIVITY
IN A 100-YEAR FLOODPLAIN AND WETLANDS
THE LYNX AT RIVER BEND GOLF CLUB, INC.
87 NEVERSINK DRIVE, TOWN OF DEERPARK,
ORANGE COUNTY, NEW YORK
JANUARY 18, 2017**

To: All interested Agencies, Groups, and Individuals

This is to give notice that the Governor's Office of Storm Recovery (GOSR), an office of the New York State Housing Trust Fund Corporation (HTFC), has received a request to use Community Development Block Grant - Disaster Recovery (CDBG-DR) funding from the NY Rising Small Business Recovery Program to implement repairs and mitigation at The Lynx at River Bend Golf Club, Inc. (hereinafter, the "Proposed Activity") and is conducting an evaluation as required by Executive Order 11988 and Executive Order 11990 in accordance with U.S. Department of Housing and Urban Renewal (HUD) regulations (24 CFR Part 55). There are three primary purposes for this notice. First, to provide the public an opportunity to express their concerns and share information about the Proposed Activity, including alternative locations outside of the floodplain and wetlands. Second, adequate public notice is an important public education tool. The dissemination of information about floodplains and wetlands facilitates and enhances governmental efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the government determines it will participate in actions taking place in the floodplain and wetlands, it must inform those who may be put at greater or continued risk. Funding for the Proposed Activity will be provided by the HUD CDBG-DR program for storm recovery activities in New York State.

The Proposed Activity is needed to address flooding from Hurricane Irene and Tropical Storm Lee, which resulted in sediment accumulation in wetlands (freshwater ponds) and damage to fairways and greens located in a 100-year floodplain and partially in a floodway. The Proposed Activity would involve dredging seven existing ponds, repairing the golf course, landscaping to create approximately sixteen naturalized areas, and mitigating damage from future storm events.

The Proposed Activity entails future construction-related and mitigation activities. Future construction-related activities would involve the removal of sediment deposited by storms from seven existing ponds and returning the ponds to pre-storm depths. The dredged sediment would then be relocated to areas on the property to repair existing golf cart paths, which were washed away during the storms, and to help create approximately sixteen naturalized areas. Aeration of all fairways will also occur, along with replanting and fertilization of portions of fairways. The proposed mitigation-related activities consist of new plantings in the proposed naturalized areas. Dredged sediment from the ponds would be placed at grade to allow the planting of trees, shrubs, and grasses to stabilize the natural areas reducing the need for turf repair resulting from future flooding events. Any ground disturbance from the Proposed Activity would be limited to previously disturbed areas. The Proposed Activity does not involve the siting of new or substantially improved buildings or structures in floodway and is not a functionally dependent use. However, the Proposed Activity would restore the functionality of the floodplain by decreasing flood levels as the dredging of the ponds would increase their capacity to store stormwater runoff and the plantings of nature areas would prevent/resist erosion.

The Proposed Activity would result in permanent impacts to approximately 5.5 acres of wetlands and permanent impacts to approximately 62 acres of 100-year floodplain. The permanent impacts are associated with the proposed sediment removal and repairs to existing golf course infrastructure.

Floodplain maps based on the FEMA Flood Insurance Rate Maps and wetlands maps based on the National Wetland Inventory and New York State Department of Environmental Conservation (NYSDEC) data have been

prepared and are available for review with additional information at: <http://www.stormrecovery.ny.gov/environmental-docs>.

Any individual, group, or agency may submit written comments on the Proposed Activity or request further information by contacting Lori A. Shirley, Certifying Officer, Governor's Office of Storm Recovery, 38-40 State Street, Hampton Plaza, Albany, NY 12207; email: NYSCDBG_DR_ER@nysher.org. Standard office hours are 9:00 AM to 5:00 PM Monday through Friday. For more information, call (518) 474-0755. All comments received by February 2, 2017 will be considered.

Appendix 3

Final Notice Floodplain Management Executive Order 11988 & Protection of Wetlands Executive Order 11990



**Governor's Office of
Storm Recovery**

ANDREW M. CUOMO
Governor

LISA BOVA-HIATT
Executive Director

PUBLIC NOTICE

**COMBINED PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN
& WETLAND, AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (*NOI-RROF*)**

**THE LYNX AT RIVER BEND GOLF CLUB, INC.
87 NEVERSINK DRIVE, TOWN OF DEERPARK,
ORANGE COUNTY, NEW YORK**

FEBRUARY 6, 2017

Name of Responsible Entity and Recipient: New York State Homes and Community Renewal (HCR), 38-40 State Street, Hampton Plaza, Albany, NY 12207, in cooperation with the New York State Housing Trust Fund Corporation (HTFC), of the same address. Contact: Lori A. Shirley (518) 474-0755.

Pursuant to 24 CFR Section 58.43, this combined Final Notice and Public Explanation of a Proposed Activity in a Floodplain and Wetland, and Notice of Intent to Request Release of Funds (NOI-RROF) satisfies two separate procedural requirements for project activities proposed to be undertaken by HCR.

Project Description: GOSR proposes to provide HUD CDBG-DR funding to The Lynx at River Bend Golf Club, Inc. located at 87 Neversink Drive, Town of Deerpark, Orange County, New York 12771. HUD CDBG-DR funding of \$100,000.00 for future construction and \$100,000.00 for mitigation-related activities is proposed (the "Proposed Project"). Future construction-related activities would involve dredging sediment from seven existing ponds and repairing existing golf cart paths. In addition, the golf course's fairways would be aerated and replanted. Proposed mitigation-related activities would include the development of 16 new naturalized areas to be planted with native vegetation and stabilized with sediment dredged from the seven existing ponds. All newly planted areas would be mulched. Any ground disturbance would occur within previously disturbed areas.

PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN & WETLAND

The Proposed Project would be located in a 100-year floodplain (SHFA Zone AE) and within wetlands. Approximately 5.5 acres of wetlands would be disturbed, and approximately 62 acres of floodplain, of which 53 acres are within a floodway, would be disturbed. Since the action will include new construction in a wetland and floodplain, Executive Orders 11990 and 11988 require that the project not be supported if there are practicable alternatives to development in floodplain and new construction in wetlands. The Proposed Project does not involve the siting of new or substantially improved buildings or structures in floodway and is not a functionally dependent use. However, the Proposed Project would restore the functionality of the floodplain by decreasing flood levels as the dredging of the ponds would increase their capacity to store stormwater runoff and the plantings of nature areas would prevent/resist erosion.

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains/wetlands and those who have an interest in the protection of the natural environment have an opportunity to express their concerns and provide information about these areas. Second, adequate public notice is an important public

education tool. The dissemination of information and request for public comment about floodplains/ wetlands can facilitate and enhance federal efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the federal government determines it will participate in actions taking place in floodplains/ wetlands, it must inform those who may be put at greater or continued risk.

Public Review: Public viewing of the Floodplain Management and Wetland Protection Documents are available online at <http://www.stormrecovery.ny.gov/environmental-docs> and are also available in person Monday – Friday, 9:00 AM – 5:00 PM at the following address: New York State Homes and Community Renewal (HCR), 38-40 State Street, Hampton Plaza, Albany, NY 12207. Contact: Lori A. Shirley (518) 474-0755.

REQUEST FOR RELEASE OF FUNDS AND CERTIFICATION

On or about February 14, 2017, the HCR certifying officer will submit a request and certification to HUD for the release of CDBG-DR funds appropriated under Public Law 113-2, as amended and as authorized by related laws and policies for the purpose of implementing the New York CDBG-DR Action Plan.

The Proposed Project is categorically excluded from the National Environmental Policy Act of 1969 (NEPA) by HUD regulations at 24 C.F.R. Part 58. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file and available for review and copying in person Monday – Friday, 9:00 AM – 5:00 PM at the following address: Governor’s Office of Storm Recovery, 38-40 State Street, Hampton Plaza, Albany, NY 12207. Contact: Lori A. Shirley (518) 474-0755. The ERR is also available upon written request by post or email.

Public Review: Public viewing is available in person Monday – Friday, 9:00 AM – 5:00 PM at the following address: New York State Homes and Community Renewal (HCR), 38-40 State Street, Hampton Plaza, Albany, NY 12207. Contact: Lori A. Shirley (518) 474-0755.

Further information or a copy of the ERR may be requested by writing to the above address, emailing NYSCDBG_DR_ER@nyshcr.org or by calling (518) 474-0755. This combined notice is being sent to individuals and groups known to be interested in these activities, local news media, appropriate local, state and federal agencies, the regional office of the U.S. Environmental Protection Agency having jurisdiction, and to the HUD Field Office, and is being published in a newspaper of general circulation in the affected community.

Public Comments on the Proposed Activity within 100-year Floodplain and Wetland, and/or NOIRROF: Any individual, group or agency may submit written comments on the Project. Comments should be submitted via email, in the proper format, on or before February 13, 2017 at NYSCDBG_DR_ER@nyshcr.org. Written comments may also be submitted at the following address, or by mail, in the proper format, to be received on or before February 13, 2017: Governor’s Office of Storm Recovery, 38-40 State Street, Hampton Plaza, Albany, NY 12207. Comments may be received by telephone by contacting Lori A. Shirley at (518) 474-0755. All comments must be received on or before 5:00 PM on February 13, 2017 or they will not be considered. If modifications result from public comment, these will be made prior to proceeding with the expenditure of funds.

HCR certifies to HUD that Lori A. Shirley, in her capacity as Certifying Officer, consents to accept the jurisdiction of the U.S. federal courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD’s approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows GOSR to use CDBG-DR program funds.

Objection to Release of Funds: HUD will accept objections to its release of funds and GOSR’s certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later). Potential objectors may contact HUD or the GOSR Certifying Officer to verify the actual last day of the objection period.

The only permissible grounds for objections claiming a responsible entity's non-compliance with 24 CFR Part 58 are: (a) Certification was not executed by HCR's Certifying Officer; (b) the responsible entity has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the responsible entity has committed funds or incurred costs not authorized by 24 CFR Part 58 before release of funds and approval of environmental certification; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to Tennille Smith Parker, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, U.S. Department of Housing & Urban Development, 451 7th Street SW, Washington, DC 20410, Phone: (202) 402-4649.

Lori A. Shirley
Certifying Officer
February 6, 2017