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In the Matter of the Application of

Town of Westport, Consolidated Mortgages, LLC  
for an Amendment to the Official  
Adirondack Park Land Use and  
Development Plan Map

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**ORDER**

**MA 2018-02**

**SUMMARY**

The Adirondack Park Agency (Agency) has received a joint application for an amendment to the Official Adirondack Park Land Use and Development Plan Map (Official Map) from the Town of Westport, Essex County and Consolidated Mortgages, LLC, the owner of the land requested for the amendment. The applicants are requesting that approximately 29 acres be reclassified from Resource Management to Hamlet.

The requested map amendment area is not defined by “regional boundaries” as required by Section 805(2)(c)(5) of the Adirondack Park Agency Act (APA Act) and described in the Agency’s Final Generic Environmental Impact Statement (FGEIS) on the map amendment process (August 1, 1979). Boundaries were expanded by the Agency to include the entire requested map amendment area and nearby lands that are similar in character. This expanded area, referred to in this document as the *Alternative Area 2*, is approximately 32 acres in size and meets the required regional boundary criteria.

Pursuant to the FGEIS, a Draft Supplemental Environmental Impact Statement (DSEIS) was filed on November 9, 2018. A public hearing was held on December 20, 2018, at the Westport Town Hall, with over thirty people in attendance. The public comment period concluded on January 7, 2019 and three written comments were received. On July 11, 2019 the Agency accepted and filed a Final Supplemental Environmental Impact Statement (FSEIS). Upon publication of acceptance of the FSEIS in the Environmental Notice Bulletin, the Agency issued a Findings Statement no less than ten days after publication.

After review of the FSEIS, based upon the facts and conclusions in the FSEIS and the Findings Statement, and based upon the criteria set forth in Section 805 of the Adirondack Park Agency Act, the Agency approves the reclassification of the 32-acre Alternative Area 2 from Resource Management to Hamlet.

## FINDINGS OF FACT

1. The Alternative Area 2 is described as follows:

Beginning at a point at the intersection of the centerline of Severson Road and the boundary of the former Village of Westport; thence in a westerly direction along the centerline of County Route 29 to a point one-tenth mile (528 feet) from said intersection; thence in a northerly direction at a constant and parallel distance of one-tenth mile from the centerline of County Route 30 to the boundary between Great Lots 39 and 40 of the Dominick Patent; thence in a northeasterly direction along said Great Lot boundary to the centerline of County Route 30; thence in a southerly direction along the centerline of County Route 30 to the point of beginning.

2. The USDA Natural Resource Conservation Service (NRCS), in its Soils Survey for Essex County, has identified two soil series, Vergennes and Kingsbury, within Alternative Area 2.
3. The topography of Alternative Area 2 ranges from generally flat to moderately sloping. Slopes ranging from 0% to 3% comprise approximately 46% of Alternative Area 2. Generally, slopes in this range are free from most building and development limitations, although there may be problems associated with poor drainage. Slopes ranging from 3% to 8% comprise approximately 28% of Alternative Area 2. Slopes in this range are relatively free of limitations due to topography and pose little or no environmental problems due to topography. Slopes ranging from 8% to 15% comprise approximately 15% of Alternative Area 2. Slopes in this range can pose moderate limitations for development which can be overcome with careful site design. Slopes above 15% comprise approximately 3% of Alternative Area 2.
4. The elevation in Alternative Area 2 ranges from approximately 220 feet to approximately 270 feet in elevation.
5. There are approximately 0.4 acres of wetlands in Alternative Area 2.
6. The primary hydrologic feature in Alternative Area 2 is an unnamed stream that forms the western boundary of the requested map amendment area. This unnamed stream is not classified by NYS DEC, but is a tributary to Hoisington Brook which is classified as a C(t) stream by NYS DEC. Class "C" waters are those best used for fish propagation, fish habitat and fishing. The "t" further indicates that it is designated trout water.
7. Alternative Area 2 is visible from Stevenson Road and would potentially be visible from portions of Lake Champlain if intervening vegetation east of the Alternative Area 2 were cleared.

8. A portion of Alternative Area 2 is located within an approximately 4,500-acre area identified as potential breeding area for the Northern Harrier (*Circus cyaneus*). The mapping accuracy for this information is low. The Northern Harrier has a state ranking of S3, indicating that it is uncommon in New York State, typically with 21 to 100 occurrences, and a global ranking of G5, indicating that it is globally secure. Northern Harriers breed in North America from northern Alaska and Canada south to central and southern California, Mexico, and portions of the southern U.S., excluding the southeast region. Wintering occurs from southern Canada to northern South America. Communal flocks roost on the ground during winter and migratory periods in agricultural fields, abandoned fields and salt marshes. Breeding occurs in both freshwater and brackish marshes, tundra, fallow grasslands, meadows, and cultivated fields.
9. The 0.4 acres of wetlands within Alternative Area 2 may be a statutory Critical Environmental Area (CEA) pursuant to the Adirondack Park Agency Act if there is free interchange of surface water with an adjacent water body.
10. The Hamlet land use area within the Town of Westport lies immediately east of the requested Alternative Area 2.
11. Alternative Area 2 is accessible from the existing Hamlet area via Stevenson Road (County Route 44), a hard-surfaced public highway, and Country Club Way, a hard-surfaced private road.
12. Alternative Area 2 is located within the Westport Sewer District #1. The Sewer District was expanded on May 28, 2019 to include all of this area. The Town of Westport Sewer District Expansion Map Plan and Report prepared by Engineering Ventures, PC, March 2019, states that the wastewater treatment plant has a permitted capacity of 180,000 gallons per day (GDP).
13. According to data obtained from Essex County Office of Real Property Tax Service and the NYS Office of Real Property Services (ORPS), Alternative Area 2 contains approximately 31 acres of a parcel classified as a public golf course and less than 1 acre of a residential parcel. There are no structures in Alternative Area 2.

## ENVIRONMENTAL IMPACTS

Significant impacts may result from changes in the amount of allowable new development in Alternative Area 2. They are described as to each area in the Draft and Final Supplemental Environmental Impact Statements published for this action, and detailed in the maps therein, showing the locations of sensitive resources, and summarized as follows:

1. Sewage Disposal: The proposed map amendment area is located in a newly formed sewer district expansion area. The wastewater treatment plant (WWTP) is permitted to discharge 180,000 GPD and in 2018 it received approximately 57,000 GPD during dry weather and up to 257,000 GPD during wet weather due to Inflow & Infiltration (I&I).
  - a. On May 28, 2019, the Town Board resolved to expand the Sewer District to include the 32-acre parcel to be reclassified. The Town Sewer Code requires that any buildings or properties within the sewer district must install suitable toilet facilities and connect to the public sewer within one year of construction of the sewer extension. It is unlawful to construct or maintain any privy, privy vault, septic tank, or cesspool within the sewer district boundaries. This reclassification to Hamlet and the expansion of the sewer district will encourage growth in the Town and provide social and economic benefits.
  - b. The Town of Westport Sewer District Expansion Map Plan and Report prepared by Engineering Ventures, PC, March 2019 (Map Plan and Report) and developed for the sewer district extension estimates approximately 12,590 GPD from the sewer district expansion area. If I&I problems are not addressed, an additional 12,590 GPD could cause the WWTP to exceed its permitted levels and lead to the discharge of pollution into Lake Champlain. Despite the excessive volume, the plant is effectively treating the effluent it receives. The NYS DEC SPDES permit requires that the I&I problems will be addressed, and the Town has taken steps to study and address the problem.
2. Developed Area Storm Water Runoff: Development at intensities permitted in Hamlet could increase runoff and associated non-point source pollution of streams and wetlands. Such problems arise when precipitation runoff drains from the land into surface waters and wetlands. The volume of runoff from an area is determined by the amount of precipitation, the filtration characteristics related to soil type, vegetative cover, surface retention, and impervious surfaces. An increase in development of the area would lead to an increase in surface runoff to the landscape and nearby wetlands, due to the elimination of vegetative cover and the placement of man-made impervious surfaces.

3. Erosion and Sedimentation: Surface water resources could be impacted by activities which tend to disturb and remove stabilizing vegetation and result in increased runoff, soil erosion, and stream sedimentation. Erosion and sedimentation may destroy aquatic life, ruin spawning areas, and increase flooding potential.
4. Adverse impacts to flora and fauna: The proposed action to change to a less restrictive classification may lead to adverse impacts upon flora and fauna due to the potential increase in development adjacent to wetlands subject to Agency jurisdiction under the Adirondack Park Agency Act and the New York State Freshwater Wetlands Act. These impacts can be mitigated through the Freshwater Wetlands permitting system.

### **CONCLUSIONS OF LAW**

HAVING DULY CONSIDERED the above Findings of Fact, Environmental Impacts, the FSEIS, and the Findings Statement, the Agency makes the following Conclusions of Law:

1. The Agency has given consideration to the Final Generic Environmental Impact Statement, "The Process of Amending the Adirondack Park Private Land Use and Development Plan Map," August 1, 1979, and the Draft and Final Supplemental Environmental Impact Statements, and the Findings Statement. All requirements of 6 NYCRR Part 617 implementing Article 8 of the ECL (SEQR) have been met.
2. Reclassification of Alternative Area 2 from Resource Management to Hamlet accurately reflects the legislative findings and purposes of Section 801 of the Adirondack Park Agency Act, and would be consistent with the Adirondack Park Land Use and Development Plan, including the character description and purposes, policies, and objectives of Hamlet areas set forth in Section 805(3)(c) of the Adirondack Park Agency Act, taking into account such existing natural resource, open space, public, economic, and other land use factors.
3. This reclassification is consistent with and reflects the regional nature of the land use and development plan and the regional scale and approach used in its preparation.

THE REQUEST having regularly come for consideration and due deliberation having been had, and the Agency having voted to approve the request.

NOW, THEREFORE, based upon the request, the above Findings of Fact and Conclusions of Law, and the vote duly taken, it is

ORDERED that the above-described request for an amendment to the Official Adirondack Park Land Use and Development Plan Map for MA2018-02, in the Town of Westport, Essex County, be approved in the following manner:

MA 2018-02: Resource Management to Hamlet; 32 ± acres

ADIRONDACK PARK AGENCY

By \_\_\_\_\_  
Richard E. Weber  
Deputy Director, Planning

ORDER issued this \_\_\_\_\_  
Day of \_\_\_\_\_ 2019

at Ray Brook, NY