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Peter Bauer
Executive Director

January 20, 2020

Hon. Frank Thomas
Supervisor, Town of Stony Creek
PO Box 96
Stony Creek, NY 12878

**RE: Response to Town of Stony Creek Resolution 126 and Clarification
About Conservation Development Legislation A.8123-A Englebright/S.6484
Kaminsky**

Dear Supervisor Thomas:

On December 17, 2019, the Stony Creek Town Board passed resolution 126 to express its opposition to legislation (A.8123-A Englebright/S.6484 Kaminsky) currently introduced in the State Legislature to require conservation development review for large-scale commercial speculative subdivisions regulated by the Adirondack Park Agency (APA). The resolution enumerates a number of changes that the legislation would make to the APA Act, and while we dispute many of the conclusions in the resolution, we note that it fails to address a number of the bill's features that are advantageous to private landowners.

The bill introduces the concept of "conservation design" for the development of large subdivisions within the Adirondack Park. The categories of lands subject to the bill are classified by the APA as Low Intensity, Rural Use and Resource Management. The goal of the legislation is to direct large-scale residential development in these categories to those sites that protect ecosystem function, increase biotic diversity, protect species composition, habitat and forest lands. The resulting development can reduce roadways, water and sewer lines, power lines and other infrastructure. As a result, the subdivision will provide greater open space and enhance ecological benefits for the residents and the community.

It's important to note that this legislation, first introduced in 2015, is the most significant amendment to the Adirondack Park Agency (APA) Act since it was enacted in 1973. Following its introduction, the bill was subjected to extensive negotiation with organizations representing local government, the forest products industry, and other Adirondack interests. Changes to the bill included addition of a density bonus, protections for forest management, a provision for transfer of

development rights, a streamlined regulatory review process, an exemption for small subdivisions and a hardship variance, among other changes. These changes, which include incentives for developers, produced the current version of the bill that address the long-term interests of property owners and natural resource protection in the Adirondack Park.

The success of the extensive negotiations is seen in support of many organizations in the Memo of Support for this legislation attached.

Protect the Adirondacks encourages the Stony Creek Town Board to consider a number of key features of this legislation that were not addressed in Resolution 126. These features make this legislation balanced and will significantly improve the review of large-scale subdivisions in Stony Creek and the Adirondack Park.

Legislation Clarifies and Makes Predictable Regulatory Review: The bill requires the identification and evaluation of environmentally sensitive areas on the proposed development site at the beginning of the review process. By requiring this data with the application early in the process, the applicant can identify areas of the site most appropriate for development. This can avoid problems and additional costs later in the review process, as might be the case with traditional development proposals. In this way, problems and important natural resources areas within a project site are identified at the beginning of the review process. Making the APA regulatory process more predictable is an important part of this legislation.

Hardship Variance: The legislation includes a hardship variance, which was included with Adirondack landowners in mind who are land rich and cash poor. Under this measure, a landowner who needs to create 5 or more lots in a Resource Management area, 10 or more lots in Rural Use, and 25 or more lots in Low Intensity, can undertake a process to be exempt from conservation development requirements based on an economic hardship. This legislation is designed to capture large-scale commercial and speculative developments, not lands being subdivided for family purposes. The hardship variance is an important part of this legislation.

Density Bonus: As previously noted, the bill contains considerable incentives, one of which is a measure that creates a density bonus. Under this legislation, a developer can secure a 10% or 20% increase in the number of principal building rights in all APA land use areas by conserving larger amounts of the proposed development in open space. This legislation is based on clustering development and creating large blocks of open spaces. If a developer goes beyond the bill thresholds for required open space, they can secure additional principal building rights above and beyond current APA levels. The density bonus is an important part of this legislation.

Transferable Development Rights: Another considerable incentive in this legislation is the inclusion of a new transferable development rights (TDRs) program. Under this legislation, a developer can obtain TDRs to be used elsewhere in the community if the current property is unsuitable. A TDR program has long been a key aspiration of local government leaders in the Adirondacks for years and this legislation starts this program. The TDR program is an important part of this legislation.

Conservation Design and Open Space for Logging: Forest products leaders in New York State have found that forest fragmentation is the greatest long-term threat to commercial forest products management in the state. By emphasizing the creation of a large conservation lot at the time of property development, when lands are generally split up and taken out of viable forest management, this legislation seeks to safeguard and foster long-term active forest management in the Adirondack Park. The preservation of open space so that forest management can actively continue is an important part of this legislation.

Clustering Development Minimizes Expenses for Developers: It is well established that clustering of structures results in a reduced development footprint on a project site, thus providing far greater ecological and economic values to the homeowners. There is no data to suggest that the value of the land is negatively impacted. In fact, in communities utilizing conservation design, which is widely used by local governments across New York State, the value of the property is generally enhanced by such sustainable development. Many land buyers find that inclusion of access to a large common private lot in connection with their property is very attractive. The developer still has the benefits of selling the same number of units, or more under the density bonus, than would have been allowed with a traditional development pattern.

We believe that the extensive process that the Adirondack advocacy organizations, local government and community organizations undertook has resulted in a comprehensive sustainable proposal for the Adirondack Park that protects the magnificent resources of this region and provides its residents with responsible development options.

Please do not hesitate to contact us with further questions. We're happy to come to Stony Creek to discuss the impacts of this legislation on your community.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Bauer". The signature is fluid and cursive, with a large initial "P" and "B".

Peter Bauer
Executive Director

Adirondack Association of Towns and Villages
Adirondack Common Ground Alliance
Adirondack Council
Adirondack Local Government Review Board
Adirondack Mountain Club
Adirondack Wild: Friends of the Forest Preserve
Empire State Forest Products Association
Protect the Adirondacks!

Memorandum of Support

A.8123a (Englebright) S.6484 (Kaminsky)

“AN ACT to amend the executive law, in relation to preserving ecological integrity, wildlife and open space in the Adirondack park”

The organizations listed support passage in 2019 of A.8123a. The bill would amend the Adirondack Park Agency (APA) Act by incorporating conservation development principles and practices, which are currently used by government regulatory programs at all levels in areas across the United States, to curtail the effects of widely scattered exurban development, commonly known as “rural sprawl.”

Signed:

Matt Simpson, President, Adirondack Association of Towns and Villages

William Farber, Board Member, Adirondack Association of Towns and Villages

Gerald Delaney, Executive Director, Adirondack Local Government Review Board

John Bartow, Executive Director, Empire State Forest Products Association

Zoë Smith, Ross Whaley, Co-Facilitators, Adirondack Common Ground Alliance

Peter Bauer, Executive Director, Protect the Adirondacks

Willie Janeway, Executive Director, Adirondack Council

Neil Woodworth, Executive Director and Counsel, Adirondack Mountain Club

David Gibson, Managing Partner, Adirondack Wild: Friends of the Forest Preserve