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May 24, 2021

Mr. Brad Austin
Chairman of the Board
Acting Chairman of the APA Commissioners
PO Box 99
Ray Brook, NY 12977

RE: Agency Meeting on 5/19/21: Comments from APA Commissioner Arthur Lussi

Dear Acting Chairman of the APA Commissioners,

Commissioner Arthur Lussi commented on an important issue at the Thursday, May 19, 2021 session of the Agency Meeting. In response to the Commissioner's comments, the Upper Saranac Lake Association (USLA) would like stress the importance of his comments as they relate to recent Agency Staff activity.

Our Association is following an important issue in our community. The proposed Leinwand property development, on Lot 9, in the Deerwood Subdivision, Saranac Lake, New York, is concerning to our 500-person membership. We understand that over 70 letters of opposition were delivered to the Agency on this project, yet few above the Agency staff level are aware of the precedent setting project, if approved.

The USLA submitted comments to the APA on May 3, 2021 in opposition to two proposed amendments to APA Permit #87-74 which involve constructing an on-site septic system in a Class 1 Wetland and reducing setbacks in the wetland from 200 feet to 100 feet. The original permit conditions were developed for a reason and should be adhered to.

From our perspective, the proposed amendments to enable the development of Lot 9 in the Deerwood Subdivision are a "material change" to Permit No 87-74. Here is what is being proposed: a boathouse (which the town of Santa Clara has already rejected for Lot 10 in recent years), extensive tree removal in a wetland to create a shoreline lot with a view, the construction of a five bedroom home plus a separate garage apartment with an additional bedroom, an on-site septic system WITHIN the wetland, and boardwalk construction through the wetlands (previously the subject of Agency enforcement action with the former Lot 9 owner, Eddy Yankitis).

A very small stream drains Lot 9 and neighboring wetlands into the very shallow northern bay of Upper Saranac Lake which has been susceptible to hazardous algal blooms. Development in a sensitive ecosystem will



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likely worsen this scenario because the wetland serves as a source of constant freshwater to the Bay. Please refer to Mr. Ray Curran's ecological analysis of the property (May, 2021).

APA Agency Staff has determined that the Leinwand project on Lot 9 consists of "non-material" changes. However, our Association strongly disagrees with this position, and believes the project should be considered a "material change" to the original permit. Any change in terms of the instrument that affects the obligations of the parties is considered material. With a material change, a full permit should be submitted to the Agency, with a public notification process, a public hearing and Commissioner review.

Commissioner Lussi also pointed out through his questioning that "non-material" permit amendments would not necessarily rise to Commissioner level for review or oversight. Lack of Commission scrutiny could infringe on public policy making, and negatively impact the surface waters in Lake Placid and Saranac Lake chain by leaving stakeholders out of the permitting process.

Commissioner Lussi also noted that on-site septic technology has advanced over the years, and those changes may trigger a "material change" under the Park Agency Act. APA staff has denied the Commissioners the opportunity to review the changing standards for septic systems by simply deeming the changes to existing permits as "non-material." This does not allow for complete review of proposed significant changes to the Adirondack Park watershed.

The Association asks that the Commissioners step in and further explore Commissioner Lussi's comments, and how his questions and concerns about materiality apply to the Lot 9 development, and other projects in the Adirondack Park. We all deserve access to public decision making that impacts clean water and our communities.

If you would like to discuss this in more detail, please contact me at 201-404-5918 or by email at koch.larry@gmail.com.

We appreciate your assistance.

Larry Koch
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Dave Powalyk
Vice President

Cc: Via Email to Mr. John Burth
Via US Mail to APA Commissioners