

**RESOLUTION ENACTING LOCAL LAW NO.: \_\_\_ OF 2019 TO AMEND QUEENSBURY TOWN CODE CHAPTER 179 “ZONING” TO CHANGE ZONING OF PROPERTY OWNED BY KUBRICKY JOHN AND SONS, INC., FROM MODERATE DENSITY RESIDENTIAL (MDR) TO RURAL RESIDENTIAL FIVE ACRE (RR-5)**

**RESOLUTION NO.** \_\_\_\_\_, 2019

**INTRODUCED BY:** \_\_\_\_\_  
**WHO MOVED ITS ADOPTION**

**SECONDED BY:** \_\_\_\_\_

WHEREAS, Fort Miller Company, Inc., (Applicant) wishes to expand its sand and gravel extraction operation at property currently owned by Kubricky John and Sons, Inc., and identified as Tax Map No.: 279.-1-48 located at 1359 Ridge Road in the Town of Queensbury (Project), and

WHEREAS, the Town Board is considering a request by the Applicant to amend the Town Zoning Map to change the zoning of the property from Moderate Density Residential (MDR) to Rural Residential Five Acre (RR-5) to permit sand and gravel extraction, and

WHEREAS, by Resolution No.: 100, 2017, the Town Board authorized, directed and consented to the New York State Department of Environmental Conservation (DEC) serving as Lead Agency for SEQRA review of the Project, and

WHEREAS, DEC determined the Project to be a Type I Action, coordinated review with other agencies was performed, DEC performed such SEQRA Review and determined that the Project would not have a significant effect on the environment, and a Negative Declaration dated

January 29, 2018 is on file with the Town, and

WHEREAS, applications for rezonings are forwarded to the Town Planning Department and Planning Board for recommendations in accordance with §179-15-040 of the Town Zoning Law and following such recommendations, the Town Board reviews the applications and takes such other action as it shall deem necessary and proper, and

WHEREAS, by Resolution No.: 184,2018, the Town Board accordingly authorized the Town Clerk to forward the Applicant's Petition for Change of Zone Application to the Planning Board for report and recommendation, and

WHEREAS, on July 17<sup>th</sup>, 2018, the Town Planning Board reviewed such Application and adopted a Resolution recommending the rezoning request as favorable, and

WHEREAS, on or about December 13, 2018, the Warren County Planning Department considered the proposal and determined that the Project would not create any significant Intermunicipal or Countywide impacts, and

WHEREAS, the proposed zoning revisions comply with the requirements of §807 of the APA Act and 9 NYCRR Part 582 of APA regulations, and

WHEREAS, in order for the Town's Zoning Code to maintain its status as an approved local land use plan under the Adirondack Park Agency (APA) Act and APA regulations, the Town must obtain APA approval of the proposed zoning request prior to adoption, and

WHEREAS, on or about December 13, 2018, the APA advised that it had reviewed and approved the proposal, and

WHEREAS, before the Town Board may amend, supplement, change, or modify its Zoning Map, it must hold a public hearing in accordance with the provisions of Town Law §265, the

Municipal Home Rule Law and the Town of Queensbury Zoning Laws, and

WHEREAS, the Town Board duly conducted public hearings and heard all interested parties concerning the proposed rezoning on Monday, January 28<sup>th</sup>, 2019 and Monday, February 11<sup>th</sup>, 2019, and

WHEREAS, the Town Board has considered the conditions and circumstances of the area affected by the rezoning, and

WHEREAS, the Town Board wishes to consider adoption of Local Law No.: \_\_ of 2019 as presented at this meeting to amend Queensbury Town Code Chapter 179 by amending the official Town Zoning Map to reflect such changes as set forth above,

NOW, THEREFORE, BE IT

RESOLVED, that the Queensbury Town Board hereby adopts Local Law No.: \_\_ of 2019 to Amend Chapter 179 “Zoning” of Queensbury Town Code to Change Zoning of Certain Property from MDR to RR-5, such property currently owned by Kubricky John and Sons, Inc., and identified as Tax Map No.: 279.-1-48 located at 1359 Ridge Road in the Town of Queensbury as set forth in the preambles of this Resolution, and

***BE IT FURTHER,***

***RESOLVED, that in furtherance of protection of and benefit to the public, such zoning amendment shall be subject to the following five (5) conditions:***

- 1. The Fort Miller Company, Inc. shall construct a road connecting their current mining operation and Ridge Road, using the property in question.***
- 2. That road shall be their primary road for their mining operations and any other related traffic.***

3. *That the Dream Lake Road access shall be gated and closed and only be used in the case of emergencies.*
4. *That the above shall occur:*
  - A. *Within 16 months of Final Planning Board approval for the expansion of the mining operation on either tax map no.: 279.-1-4-8 or 279.-1-72; or*
  - B. *Prior to the commencement of any expansion not requiring Planning Board approval on either such tax map parcel, whichever comes first.*
5. *The Applicant's written consent to the rezoning and the above conditions shall be filed [in the Town Clerk's Office] within \_\_\_\_ days of adoption of this Resolution.*

and

BE IT FURTHER,

RESOLVED, that the Town Board hereby authorizes and directs the Town Clerk to file the Local Law and the official Town Zoning Map, as amended, with the New York State Secretary of State in accordance with the provisions of the Municipal Home Rule Law and acknowledges that the Local Law will take effect upon such filing, and

BE IT FURTHER,

RESOLVED, that the Town Board hereby authorizes and directs the Town Clerk to send a copy of this Resolution and a copy of the Local Law and Zoning Map to the Town Planning Board, Town Zoning Board of Appeals, Town Zoning Administrator and Warren County Planning Department in accordance with §179-15-080(D) of the Town Zoning Law, and

BE IT FURTHER,

RESOLVED, that this Resolution shall take effect immediately.

Duly adopted this 18<sup>th</sup> day of March, 2019, by the following vote:

AYES :

NOES :

ABSENT :