

### **3.5 Land Use, Zoning, Public Policy and Neighborhood Character**

#### **Introduction**

To determine the extent, if any, that the analysis of impacts on land use, zoning, and neighborhood character in the 1987 Kent Manor Final Environmental Impact Statement (FEIS) must be supplemented in this ~~D~~SEIS to satisfy SEQRA, the Applicant investigated new information that has become available since 1987 that is applicable to the study area. Changes in the proposed Project since preparation of the 1987 FEIS were also evaluated to determine what additional analyses may be appropriate in this ~~D~~SEIS.

Changes in public policies were also examined to determine if the Project would potentially be in conflict with one or more of these policies.

The Applicant notes that since the analysis of impacts was conducted in the 1987 FEIS, the scope of the Project has been reduced by 45 residential units, from 318 to 273. Other changes in the currently proposed Project include the construction of a sophisticated stormwater treatment system on the site with some alteration in the location of proposed basins.

During March 2006, existing land uses, zoning, public policies, and neighborhood character applicable to the site and within a quarter mile of its perimeter (the study area) were surveyed to determine the extent to which these aspects of the community have changed since 1987. The following summarizes the outcome of the investigations.

#### **3.5.1 Existing Conditions**

##### **Changes in Zoning**

The following conditions existed on the Project site, and in the study area, in 1987, and were determined to exist at the time this ~~D~~SEIS was prepared. Existing conditions (2006) in the vicinity of the Project site are depicted in several figures in section 2.0 of this ~~D~~SEIS. Figure 2-1 illustrates the Project area on a USGS topographic map (Lake Carmel Quadrangle). Figures 2-4 and 2-5 show aerial photographs of the subject site taken in 1988 before construction was initiated and in 2004 after construction was initiated, respectively.

The Town of Kent is a rural residential community, approximately three-quarters of which is zoned R-80 (80,000 square foot residential lots). With commercial corridors along New York State Route 52, industrial zoning along Interstate 84, and R-40 (40,000 square foot residential lots) and R-10 (10,000 square foot residential lots) residential districts surrounding Lake Carmel, the eastern end of the Town contains the most intensive land uses. The Kent Manor site lies within one of three Planned Residential Development (PRD) districts that existed in the eastern end of the town in 1987.

The PRD zone in which the Kent Manor Property is located has not changed since 1987. The PRD zoning allows for residential development to a maximum of three dwelling units per acre. Construction of the 318 units reviewed in 1987, eventually modified to 303 units, rather than the lower number of 273 currently proposed ~~now~~ would be permissible under the Town's zoning regulations.

*The Town of Kent has proposed certain changes to the Town Master Plan and the Town Zoning Law. While the Town Board was reviewing the recommended amendments and considering such amendments appropriate for adoption, a moratorium on residential subdivision activity was put into effect. The moratorium expired on March 12, 2007, but was reinstated on April 9, 2007. The Kent Manor property was excluded from the first moratorium and is similarly excluded from the new moratorium. The Planning Consultant for the Town of Kent has informed the Applicant that the proposed rezoning will not affect the Kent Manor site, consistent with the Decision and Order of Putnam County Supreme Court, dated October 14, 2005 (see the text of the proposed rezoning in Appendix B). The project complies with all applicable regulations of the Town of Kent Planned Residential District Zone in which the project site entirely lies.*

East of the site are some 58 commercially zoned acres with frontage on Route 52. Averaging 800 feet in depth, some of this land is developed near the highway, with the steeper wooded hillside, which extends up to Nichols Street, undeveloped.

Strip commercial zoning extends along both sides of Route 52 south of Nichols Street to the Carmel Town Line. Land uses in the vicinity of the site include gas and oil storage facilities, a lumber company, restaurants, retail stores, a medical center and gasoline/service stations. The commercial district includes vacant retired agricultural land immediately south of the Project site, with approximately 1200 feet of frontage on Nichols Street.

Immediately southeast of the Project site, residential uses exist on the north side of Nichols Street. Six of these single-family homes are in the Nichols Street PRD district.

South, west, and north of the site is one-acre residential zoning (R-40). Portions of this land are fully developed, including some 65 lots known as the Romanoff subdivision to the southwest, and lots on both sides of Nichols Street west of the site. Land immediately to the north and west is largely wooded or retired agricultural with sparse residential use along both sides of Horse Pound Road.

Much of the area surrounding Lake Carmel, which is zoned R-10, was developed with single-family summer bungalows during the early 1900's. Many of these units were converted to year-round use, and additional homes were built in the area, during the 1980s. This section of Kent has experienced the most intensive development in the Town.

Planning for changes in population, growth of the economy, community facilities and for future land use and development is reflected in the Town of Kent's 1990 Master Plan in the form of the Zoning Map. The current zoning for the southeastern corner of the Town of Kent was in effect in 1987. The tool directing current growth in the community is the zoning ordinance, which directs day-to-day planning for development densities and land uses.

Like the PRD zoning designation on the Project site, the zoning districts adjacent to and in the vicinity of the Project site, have not changed since the 1987 FEIS.

#### Changes in Land Use on the Project Site

The Project site is vacant except for several residential foundations, part of the sewage treatment plant, community wells established in the early 1990's, and roughly graded roadways and associated infrastructure for portions of the Project that were approved in 1987. These improvements are the result of construction of the Project, which began, and was suspended, in

the early 1990s. There have been no changes in land use on the site since construction activities were suspended.

Access to the site is provided exclusively from Nichols Street, part of the Town of Kent road network. Neither access to the site, nor the regional transportation network, has changed significantly since the 1987 FEIS was completed, since the Town of Kent issued its SEQRA Findings, or since construction. Based upon the consistency between conditions at the time the 1987 FEIS was prepared and construction was initiated, and the present, expanding the study area to fully assess impacts in this ~~D~~SEIS is not warranted.

Since 1987, the residential land uses in the study area, as determined by field survey and described above and in the 1987 FEIS, have not changed. See before and after construction aerial photos (*Figures 2-4 and 2-5*) in the Project Description chapter of this ~~D~~SEIS.

Kent's primary north to south transportation corridor, Route 52, continues to serve as the main thoroughfare for the Town of Kent with a variety of land uses as it did in 1987. Nichols Street extends to the Project site from Route 52 to the east. Interstate I-84 is a major limited access highway that runs from the southeast to the northwest a few miles east of the Project site. Route 52 and Interstate 84 are well-established corridors, which include a range of retail, commercial, and residential uses. These transportation facilities and the various land uses in the transportation corridors have not changed significantly since 1987.

#### Changes in Public Policy Applicable to the Project Site and Study Area

##### *Town of Kent Master Plan*

Public policy applicable to the Project site, and the study area, is set forth the Town of Kent Master Plan (adopted in May 1990). The Town of Kent Master Plan effective in 1987 and the Master Plan adopted in May 1990 and revised in 1992 were reviewed to identify any significant changes in the community's planning vision and strategies for growth and future development in the Town that may influence the 1987 analysis of environmental impacts relative to public policy. The 1990 Master Plan as it applies to the proposed action does not include any changes relevant to the Project.

##### *Putnam County Planning Documents and Public Policy Statement*

Discussions with Mr. John Lynch, Putnam County Director of Planning in April 2006 confirmed that Putnam County did not have an adopted comprehensive planning document that established land use and development goals for the County at the time the 1987 FEIS was prepared, nor does it at the present time, nor does the County subscribe to an official, regional planning document to chart its course for development.

Putnam County is pursuing a *Vision 2010* Project, which would set forth a vision for various aspects of the County's development. Further, the County prepared and submitted its portion of the *Croton Plan* (prepared pursuant to the New York City Watershed Regulations) to the NYCDEP. The goal of that Plan was to identify and eliminate sources of pollution in New York City's drinking water supply watershed. However, no action had been taken on that Plan since the date of this document.

*Watershed Memorandum of Agreement and Watershed Regulations*

The Project site is located in New York City's Croton System water supply watershed. Since the 1987 FEIS was prepared, the City executed a Memorandum of Agreement and implemented regulations that could influence land use on the Kent Manor site and in the study area. These initiatives are discussed below.

In January 1997, New York City, the State of New York, the Coalition of Watershed Towns, the Catskill Watershed Corporation, the United States Environmental Protection Agency, Westchester County, Putnam County, Municipal Parties, and certain Environmental Organizations entered into the New York City Watershed Memorandum of Agreement (MOA). The MOA recognizes that an adequate supply of clean drinking water is vital to the health and social and economic well being of the population of the State and that the goals of drinking water protection and economic vitality in the City's water supply watershed, within which the Kent Manor site lies, are consistent. The intention of the parties to the agreement was, according to the MOA, to enter into a cooperative era of partnership in the development and implementation of a watershed protection program that maintains and enhances the quality of the New York City drinking water supply system and the economic vitality and social character of Watershed communities, including the Town of Kent.

A key element of the MOA was the City's issuance and the State's approval of Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and Its Sources (the Regulations). The purpose of the Regulations is to ensure the continued, long-term protection of New York City's drinking water. Specifically, the Regulations advance the City's goals of minimizing the discharge of pollutants into source waters from both point and nonpoint sources, minimizing the adverse impacts of erosion, and limiting the discharge of phosphorus to source waters which may accelerate the eutrophication process. The Regulations became effective on May 1, 1997, and on May 8, 1998, became enforceable under State law.

Activities specifically regulated under the Regulations and relevant to the Kent Manor action include the design, construction and operation of wastewater treatment plants; the preparation and implementation of stormwater pollution prevention plans; and the construction of impervious surfaces.

However, the Regulations also make provisions for noncomplying regulated activities, and define these as any regulated activities or existing activities which do not conform to the standards set forth in the Regulations, but have obtained all discretionary approvals necessary for construction and operation, prior to the May 1, 1997, effective date of the Regulations. NYCDEP has granted noncomplying regulated activity status to the Project with respect to the construction of impervious surfaces and the Stormwater Pollution Prevention Plan.

*NYSDEC Wetland Mapping*

In 2005, NYSDEC conducted a freshwater wetlands mapping program in New York City's watershed and revised its Freshwater Wetlands Maps for Putnam County. The revisions included the addition of a State regulated wetland (LC-57) on the Kent Manor site. While the area was a wetland in 1987 when the Kent Manor Project was originally approved, it was not regulated by NYSDEC. Now regulated, the wetland is afforded greater protection and the Kent

Manor action will require authorization for certain activities pursuant to a State Article 24 wetland permit.

#### Changes in Neighborhood Character

Neighborhood character throughout the study area is characterized by the predominant single family residence uses that existed in 1987.

### **3.5.2 Potential Impacts With and Without the Project**

#### Land Use

The analysis of potential environmental impacts relative to land use in the 1987 FEIS concluded that the proposed action would not have a significant, adverse impact on land uses on the site or within the study area. Given the absence of significant changes that have occurred in the land uses in the study area since 1987, *as illustrated in the discussion under Neighborhood Character on the following page*, the lack of new information in that regard, and the reduced scope of the proposed action, the 1987 conclusion concerning the proposal's lack of potential impacts on land use remains valid and no additional assessment is determined to be warranted.

#### Zoning

Zoning designations, and the Town zoning ordinance, as is applicable to the Project site and the study area have remained materially unchanged since the analysis of potential environmental impacts was conducted in 1987. As such, supplementing the 1987 FEIS analysis of potential impacts on zoning is not warranted in this ~~D~~SEIS.

#### Public Policy

Public policies applicable to the Project site, and the study area, are set forth in the Town of Kent Master Plan (May 1990). The Master Plan as it applies to the proposed action does not include any changes deemed to be relevant to the Project. In 1997 the City's Watershed Rules and Regulations became effective. Under these regulations, in order to construct the WWTP for the Project, the Applicant must participate in the POPP, which requires it to offset the phosphorus released from the site. The Applicant will achieve this offset by reducing the phosphorus discharged from the WWTP and by employing onsite and offsite stormwater treatment to reduce nonpoint source phosphorus releases. These measures are more stringent than those considered in the 1987 FEIS.

As a result of this change in Public Policy, the Applicant is required to upgrade its stormwater management plans and wastewater treatment effluent limitations to a much more environmentally conservative standard than that which existed in 1987. In that regard the impact of the Project relative to public policy is a positive one, as higher quality stormwater and wastewater effluent will be leaving the site than that proposed in the original plan.

Since the original plans were approved, the NYSDEC has revised its wetland maps and now regulates wetlands and lands within 100 feet of those wetlands on the subject site that were not formerly regulated under Article 24 of Environmental Conservation Law. This new area of regulation has potential permitting requirements that may be applicable to previously approved

building lots and newly proposed stormwater infrastructure. *Any lots not to be developed with structures will be merged into the open space of the site and held and maintained by the homeowner's association.*

Neighborhood Character

~~As the neighborhood character in the vicinity of the Kent Manor Project has not changed significantly since 1987, or since the Kent Planning Board issued its Findings to Approve the Kent Manor Project, the conclusions concerning no significant adverse impacts relevant to neighborhood character, disclosed in the 1987 FEIS remain valid and no further analysis of impacts is required to satisfy SEQRA.~~

*The U.S. Census Bureau reports the total number of housing units in the County as follows. In 1990, there were 31,898 units. In 2000, there were 35,030 housing units, an increase of 3,132 units over the ten-year period. This is an annual average increase of 313 units, or less than 1% per year. The number of building permits issued for new residential construction was relatively level between 2000 and 2003, but has declined significantly since then. The following table shows the number of permits for residential construction issued in the County between 2000 and 2006, with the corresponding average cost per unit. The average number of units permitted over the seven-year period is 268, well under the average for the 1990-2000 period. Additionally, the average cost per unit has increased by 63% over the period analyzed. The seven-year average represents an increase of 0.7% a year and in 2006, the permitting activity was less than one-half of one percent.*

*With an increase of less than 1% a year in the housing stock in the County, the overall changes in land use and neighborhood character have not been significant. A comparison of the aerial photographs of the site and its environs taken in 1988 and 2004, as shown in Figures 2-4 and 2-5, respectively, shows very little change in the number of buildings in the 16-year period.*

Table 3.5-1 Residential Building Permits Issued by Year, Putnam County, New York Showing Average Cost per Unit		
Year	Number of Permits	Average Cost/Unit
2000	359	\$192,800
2001	371	\$166,900
2002	308	\$191,500
2003	368	\$230,900
2004	196	\$235,200
2005	141	\$301,400
2006	138	\$315,914

*Therefore, as neighborhood character in the vicinity of the Kent Manor Project has not changed significantly since 1987, or since the Kent Planning Board issued its Findings to Approve the Kent Manor Project in 1987, the conclusion that there would be no significant adverse impact relevant to neighborhood character, as disclosed in the 1987 FEIS, remains valid and no further analysis of impacts is required to satisfy SEQRA.*

### 3.5.3 Mitigation Measures

As noted, and concluded in the 1987 FEIS, no significant adverse impacts on land use, zoning, public policy, and neighborhood character were anticipated. Furthermore, no significant adverse impacts on land use, zoning, public policy, or neighborhood character were identified by the supplemental analysis. In fact, regulatory changes have occurred since the issuance of the 1987 FEIS that require a reduction in the number of housing units proposed and improved stormwater and wastewater treatment.

Policy changes and added regulatory changes relative to stormwater, wastewater treatment standards and wetlands have resulted in reduced density, improved stormwater and improved wastewater treatment standards that require no further mitigation than that which would be required by those applicable regulations.

The current site plan proposes a reduced scale Project that would further minimize any potential for adverse impact on land use, zoning, public policy and neighborhood character. As a result no further mitigation measures need to be proposed.