

# BAILEY JOHNSON

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April 9, 2021

[AgencyMeeting.PublicComment@apa.ny.gov](mailto:AgencyMeeting.PublicComment@apa.ny.gov)

Adirondack Park Agency  
P.O. Box 99  
1133 NYS Route 86  
Ray Brook, NY 12977

RE: 2019-01 Map Amendment

Dear Board Members:

I represent Thomas Reed, a landowner in the above-referenced Map Amendment Area. Mr. Reed's use of his property is directly impacted by the Proposed Map Amendment. This letter is submitted in response to the Draft Order relative to the Proposed Map Amendment. As discussed below, consideration of all criteria set forth under Sections 801 and 805 of the APA Act support reclassification of the proposed area and respectfully request that the Board not approve the Draft Order.

As the Board knows, the decision to approve or deny an amendment should be based on the character of the land and its general suitability for development. The Proposed Map Amendment being considered by the Board is a natural extension of the already commercial and residential use along Hidden Valley Road. The land characteristics are in-line with the adjacent modernity density area and already include existing commercial and residential development.

The data from the Warren County Soil and Water Conservation Service in Warrensburg, NY, indicate that the soils, topography, water resources and flood hazard assessment all seem to work within a Moderate density approval. Indeed, the Draft Order to be considered by the Board includes findings that evidence the suitability of the land for development. i.e.

- Soils would not pose severe physical limitations for development (Findings of Fact, No. 2)
- 98% of the area includes slopes that can support a relatively intense level of development (Findings of Fact, No. 3.)
- The proposed Map Amendment Area is expected to have adequate soil and slope conditions to support on-site wastewater treatment systems. (Environmental Impacts No. 1)

- There are no instances of rare threatened or endangered species in the proposed area (Findings of Fact, No. 7)

However, instead of focusing on consistency of development, the Draft Order focuses on the potential for loss of open space. This argument does not account for the balance of factors that should and must be considered by the Board – natural resources, open space, public, economic, and other land use factors. The words of the statute speak to a balance between natural land resources, open space, *and* factors such as public and economic considerations. It supports a balance between development and open space that should be considered by the Board. In focusing so strongly on open space, the Draft Order ignores public and economic considerations.

For example, loss of economic development opportunities has been a consistent problem for rural communities in New York State and was a focus of the Town's Comprehensive Plan in 2010. The issue is not unique to Lake Luzerne and has been a focal point for government agencies in the State and in the Adirondacks<sup>1</sup>. By allowing a limited and natural extension of the moderate intensity use in the Proposed Map Amendment Area the Agency will allow for commercial and residential development that can support economic growth for the Town of Lake Luzerne. Without such growth Towns like Lake Luzerne will never be able to afford to expand municipal infrastructure such as sewer and water to its residence or neighboring communities. The Town of Lake Luzerne itself notes in its Comprehensive Plan that restrictions on such infrastructure have limited its ability to grow. A lack of variety in available development parcels, specifically smaller lot sizes, was identified during this process as a hardship that deters individuals and young families from building modest homes in the Town.

Further, while the Draft Order raises concerns of adverse impacts to surface and groundwater quality, the concerns can be mitigated with thoughtful municipal development and planning. Riparian buffers and prohibitions to disturbance within 100 feet of streams and emergent wetlands are available to mitigate such concerns and are recommended by the DEC.

“The agency’s determination shall be consistent with and reflect the regional nature of the land use and development plan and the regional scale and approach used in its preparation.”

Ultimately, “moderate intensity use areas are those areas where the capability of the natural resources and the anticipated need for future development indicate that relatively intense development, primarily residential in character, is possible, desirable and suitable.” The Proposed Map Amendment Area is a natural extension of an already designated moderate intensity use area.

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<sup>1</sup> See, Rockefeller Institute - <https://rockinst.org/blog/introducing-new-yorks-rural-economies/>; Adirondack Association of Towns & Villages, 2020 Legislative Agenda, North Country Regional Economic Development Council -Strategic Plan

Adirondack Park Agency

April 9, 2021

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Please consider this proposal as a balance between the Agency's goals of open space and natural resources with the local community's needs for expanded development and economic opportunities.

Very truly yours,

*Crystal R. Peck*

Crystal R. Peck

[CRPeck@BaileyJohnson.com](mailto:CRPeck@BaileyJohnson.com)

cc: **Via Email – [vze2b6n7@gmail.com](mailto:vze2b6n7@gmail.com)**  
Thomas Reed

**From:** [dgibson@adirondackwild.org](mailto:dgibson@adirondackwild.org)  
**To:** [apa.sm.AgencyMeeting.PublicComment](https://apa.sm/AgencyMeeting.PublicComment)  
**Subject:** Lake Luzerne Proposed Private Land Reclass  
**Date:** Friday, April 09, 2021 12:14:52 PM

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Agency Members and Designees,

On behalf of Adirondack Wild, allow me to express our support for and appreciation for the agency staff's thorough and, in our view, correct evaluation of the Lake Luzerne proposal and, based on application of the agency's criteria, for the staff's recommendation to deny the reclassification of 105 acres from Rural Use to Moderate Intensity Use - without prejudice.

David Gibson, Managing Partner  
Adirondack Wild: Friends of the Forest Preserve  
[dgibson@adirondackwild.org](mailto:dgibson@adirondackwild.org)



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April 13, 2021

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Terry Martino  
Executive Director  
NYS Adirondack Park Agency  
P.O. Box 99  
*(Via Electronic Submission)*

**RE: Support for New State Budget Appropriation to Fund Independent Third Party VUMF**

The Council celebrates the NYS budget agreement allocating Environmental Protection Fund money to address overuse and a visitor use management framework (VUMF), including an independent third party facilitated VUMF process. In reviewing the agenda for the upcoming April Adirondack Park Agency (APA) meeting, and in seeing that a VUMF presentation will not occur this month, the Adirondack Council offers the following comments for consideration.

Independent Third Party Visitor Use Management Framework (VUMF) for the High Peaks Region

As a member of the High Peaks Advisory Group (HPAG), the Council was disappointed to learn that the VUMF presentation originally planned for March has been postponed once again. The Council is eager to see the presentation from the Department of Environmental Conservation (DEC) and APA on their plan to undertake a VUMF planning process for the High Peaks Region, with a third party that can provide independent outside expertise. This was the recommendation of the HPAG in its final report (Overall recommendation #3, page 11).

New State Budget Appropriation Funds Independent Third Party VUMF Process

We applaud the state for providing critical funding in the FY 2021-22 New York State Budget to implement recommendations of the HPAG Report, with \$1.55 million for Adirondack and Catskill Visitor Safety and Wilderness Protection. **We are grateful that the Executive Chamber, Legislature and APA have affirmed that there is funding within this budget allocation for a VUMF process, and we look forward to learning who the state will hire as an independent third party expert.** The hiring of an outside expert is traditional to the VUMF process that has benefited many of our most well-known parks across the nation.

As part of this year's state budget allocation for HPAG recommendations, we applaud the inclusion of up to \$800,000 for Essex County to implement stop gap measures to address impacts this year, including the operation of a shuttle system (if compatible with Covid-19 safety protocols), deployment of additional port-a johns, and the hiring of trailhead educators to teach hikers *Leave No Trace* principles and the *10 essentials*. With stop gap funding for Essex County, and funding for a long term VUMF process, the state has provided a wise blend of short term and long term strategies in addressing the impacts of overuse.

### What is a VUMF?

The VUMF is an iterative process and toolkit that was designed and agreed upon by six major federal land management agencies: the National Park Service, USDA Forest Service, U.S. Fish and Wildlife Service, Army Corps of Engineers, National of Oceanic and Atmospheric Administration, and the Bureau of Land Management. It is scalable to any size parcel of public land, from a small village park to an area the size of the Adirondack Forest Preserve. It provides a common vocabulary and systematic approach. A VUMF primer is attached.

The framework provides a defensible, scientific, and transparent process that engages stakeholders and land managers in visitor use management and planning. The VUMF consists of a series of iterative steps that define desired resource and social conditions, identify indicators of those conditions, and determine thresholds that are linked to monitoring and adaptive management responses. This process is best led by an independent third party to collect data and add capacity to land management agencies, especially when management decisions are complex. The ultimate goal of the VUMF process is to inform management decisions surrounding resource protection, public safety and visitors' experiences.

The multi-stakeholder process would never be duplicative to ongoing state efforts and must be complementary and integrated with the state's ongoing management. The process, by its very design, will enhance state efforts.

### In anticipation of the DEC/APA VUMF Presentation

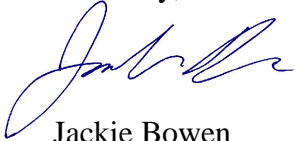
During the presentation, we hope to see the following points addressed:

- How this proposed VUMF encompasses all 14 of the steps of the federal Interagency Visitor Use Management Framework, which was specifically designed to be scalable to any parcel size, used by any agency, and to help managers navigate a wide range of visitor issues. These steps move from clarifying goals and clearly defining desired conditions through establishing thresholds and indicators, monitoring, implementation of actions to addressing concerns, evaluation, and adjustment of management actions as necessary.
- How DEC and APA plan to engage a third party outside expert facilitator to guide and participate in utilizing this framework to develop the plan, through a public-private partnership or otherwise.

- How DEC and APA will commit to established protocols of community conservation planning, including wide stakeholder engagement, transparency, and agreed-upon deliverables and outcomes.

We applaud the state for a successful NYS Budget, and are eager to see the much-anticipated presentation from DEC and APA regarding the VUMF. Thank you for reviewing and considering our comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jackie Bowen', written in a cursive style.

Jackie Bowen  
Associate Director of Conservation



## WHY MANAGE RECREATION?

Outdoor recreation is fundamental to American culture. Every year, more and more people travel to public lands and waters to pursue a growing variety of recreational activities. To continue to benefit from the opportunities created by expanding recreational use, this nationwide trend requires that all of us—visitors, managers, and citizens—adopt more effective ways to manage visitor access and use that ensure these special places, and the benefits they generate, persist for this and future generations.



Backpackers getting oriented before their hike



Enjoying a guided horseback riding opportunity

### Elements and steps of the Visitor Use Management Framework



INTERAGENCY  
**VISITOR USE MANAGEMENT**  
COUNCIL

## VISITOR USE MANAGEMENT FRAMEWORK A Guide to Providing Sustainable Outdoor Recreation

Edition 1





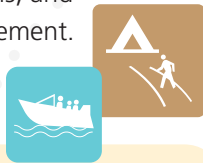
## WHAT IS THE VISITOR USE MANAGEMENT FRAMEWORK?

The Visitor Use Management Framework (the framework) is a process designed for federal managers to collaboratively develop, implement, and monitor strategies and actions to provide sustainable access to lands and waters. The intent, and ultimate desired outcome, is to provide high quality visitor experiences, while protecting natural and cultural resources. Responsive and effective visitor use management requires managers to:

- Identify desired conditions for resources, visitor experiences and opportunities, and facilities and services;
- Gain an understanding of how visitor use influences achievement of those goals; and
- Commit to active / adaptive management and monitoring of visitor use to meet those goals.

The framework can be incorporated into existing federal agency planning and decision-making processes and is applicable across a wide spectrum of situations that vary in complexity and spatial extent from site-specific to large-scale planning efforts. The framework is a legally defensible and transparent planning and decision-making process that:

- Integrates applicable laws and policy requirements;
- Provides sound rationale upon which to base management decisions; and
- Facilitates adaptive management.

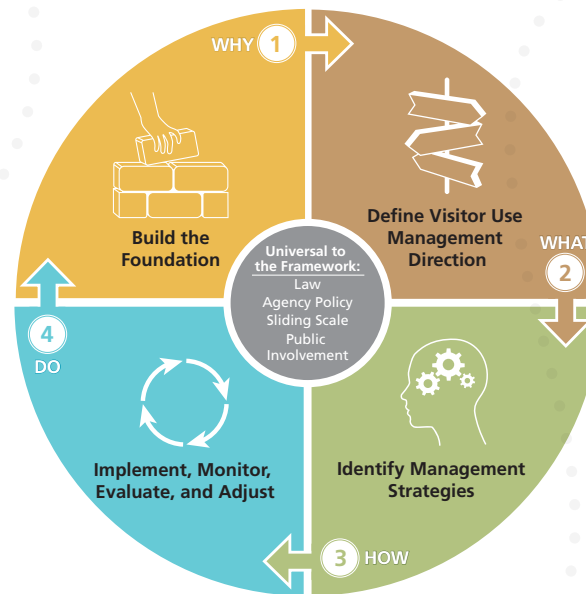


For more information, please see website [visitorusemanagement.nps.gov](http://visitorusemanagement.nps.gov)

## FRAMEWORK ELEMENTS, STEPS, AND OUTCOMES

The framework identifies four overarching elements with discrete steps under each. The graphic below illustrates the sequence (with a more detailed diagram on the back) and outcomes of these elements as well as the necessary steps in achieving each of the elements. It is important to note, these elements and steps are highly iterative in nature. The framework is intended to be applied in a flexible manner using the sliding scale concept. The strengths of this framework are that it is iterative, adaptable, and flexible.

### Overview of the Visitor Use Management Framework



Family exploring a trail

## THE SLIDING SCALE APPROACH

A sliding scale is used to ensure the investment of time, money, and other resources for the planning effort is commensurate with the complexity of the project and the consequences of the decision. Issues with clearly small impacts usually require less depth and breadth of analysis than those with impacts of greater significance. Applying this 'sliding scale of analysis' seeks to match the investment made in analysis with the level of uncertainty and risk associated with the issues being addressed. The sliding scale is used in each element of the framework. Regardless of the significance of the situation, all framework steps still apply. That is, the process does not vary with project complexity, rather the investment of time and resources varies.



Use the following criteria to determine the level of analysis for an issue:

- Issue uncertainty: What is the level of uncertainty about the issue?
- Impact risk: Are there considerable threats to the quality of resource conditions and visitor experiences?
- Stakeholder involvement: What is the level of stakeholder interest in the issue?
- Level of controversy/potential for litigation: What is the level of controversy/potential for litigation?

Once the sliding scale of analysis level has been determined, it is then used to determine the amount of effort needed for each element and step.

