



In the Matter of the Application of

Town of Lake Luzerne
for an Amendment to the Official
Adirondack Park Land Use and
Development Plan Map

ORDER

MA 2019-01

SUMMARY

The Adirondack Park Agency (Agency) has received an application for an amendment to the Official Adirondack Park Land Use and Development Plan Map (Official Map) from the Town of Lake Luzerne, Warren County. The applicant is requesting that approximately 105 acres be reclassified from Rural Use to Moderate Intensity Use (Proposed Map Amendment Area) pursuant to section 805(2)(c) of the Adirondack Park Agency Act (APA Act).

The requested map amendment area is defined by “regional boundaries” as required by Section 805(2)(c)(5) of the Adirondack Park Agency Act (APA Act) and described in the Agency’s Final Generic Environmental Impact Statement (FGEIS) on the map amendment process (August 1, 1979).

Pursuant to the FGEIS, a Draft Supplemental Environmental Impact Statement (DSEIS) was filed on April 22, 2020. An online public hearing via Webex was held on May 18, 2020. The Agency received comments from seventeen individuals and organizations during the comment period, which concluded on June 2, 2020. On April __, 2021, the Agency accepted the Final Supplemental Environmental Impact Statement (FSEIS). Notice of Completion and Acceptance of the FSEIS was published in the Environmental Notice Bulletin on _____, 2021.

The Agency received comments from three individuals in support of the proposed amendment and twelve comments opposed to the proposed amendments. Many of the negative comments were from residents of the Town opposed to the development on the basis of concerns regarding the impacts to open space resources, habitat loss, and the rural character of the area. There were also comments from environmental groups concerned with the possibility of forest fragmentation resulting from allowing a higher intensity of development in the Proposed Map Amendment Area. All of the public comments were provided to the Town of Lake Luzerne as the applicant.

On July 6, 2020, the Agency and Town agreed that the Agency would not take final action on the amendment before October 1, 2020. On September 25, 2020, the Agency sent a letter to the Town, asking if the Town would respond to the public comments, proceed on the existing record, or withdraw their request.

On November 17, 2020, the Town attorney wrote to the Agency requesting that the matter be placed on the Agency agenda for December 2020. Agency responded with a letter on November 18, 2020 inquiring whether the Town wished to respond to the public comments. The Town responded on February 2, 2021 that it intended to proceed on the current record, thereby declining to respond to the public comments.

The record before the Agency is inadequate to support the application for a map amendment. Based upon the facts and conclusions in the FSEIS and the Findings Statement, and based upon the criteria set forth in Section 805 of the APA Act, 9 NYCRR Par 583, and the FGEIS, the Agency denies the request for the reclassification of the Proposed Map Amendment Area from Rural Use to Moderate Intensity Use, without prejudice to the applicant to file an application in the future for reclassification of these lands with new or additional information.

Map Amendment Criteria

Before approving any map amendment, the agency must find that the reclassification:

... would accurately reflect the legislative findings and purposes of [APA Act § 801] and would be consistent with the land use and development plan, including the character description and purposes, policies and objectives of the land use area to which reclassification is proposed, taking into account such existing natural resource, open space, public, economic and other land use factors and any comprehensive master plans adopted pursuant to the town or village law, as may reflect the relative development amenability and limitations of the land in question. 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.

APA Act § 805(2)(c)(5).

Regarding Moderate Intensity Use, the Act provides "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." APA Act 805(3)(d).

The legislature has determined that the existing Adirondack park land use and development plan "recognizes the complementary needs of all the people of the state for the preservation of the park's resources and open space character and of the park's permanent, seasonal and transient populations for growth and service areas, employment, and a strong economic base, as well. In support of the essential interdependence of these needs, **the plan represents a sensibly balanced apportionment of land to each.**" APA Act §801 (emphasis added).

Given the legislative determination that the existing plan and classifications are sensibly balanced, the FGEIS notes that the burden of proof for a map amendment rests with the applicant and the applicant must assume the responsibility for justifying any change in a land use area classification. FGEIS at 17.

FINDINGS OF FACT

1. The Proposed Map Amendment Area is described as follows:

Beginning at a point at the intersection of the centerlines of Hidden Valley Road and a private road, approximately 2,300 feet from western intersection of Hidden Valley Road and NYS Rt 9N, measured along the centerline Hidden Valley Road; thence in a southwesterly direction along the centerline of Hidden Valley Road to the intersection with the centerline of NYS Rt 9N; thence in a westerly direction along the centerline of NYS Rt 9N to a point one-quarter mile from the centerline of Hidden Valley Road; thence in a northeasterly direction along a one-quarter mile setback from Hidden Valley Road for a distance of approximately 4,500 feet to a point on the centerline of an unnamed stream; thence in a southeasterly direction to the point of beginning.

2. The USDA Natural Resource Conservation Service (NRCS), in its Soils Survey for Warren County, has identified eight soil map units Proposed Map Amendment Area. These soil map units are primarily comprised of Bice, Hinkley and Plainfield soils series. The Agency estimates that 73% of the Agency has soils that would not pose severe physical limitations for development.
3. The topography of the Proposed Map Amendment Area consists primarily of low to moderate slopes, with 98% of the area containing slopes under 15%. Generally, slopes under 15% can support relatively intense level of development.
4. Elevation in the Proposed Map Amendment Area ranges from approximately 720 feet to 840 feet above sea level, a gain of 120 feet.

5. There are approximately 15.5 acres of wetlands in the Proposed Map Amendment Area.
6. There is an unnamed stream that is classified by the Department of Environmental Conservation as a C(t) waterbody in the northern portion of the Proposed Map Amendment Area. This indicates that its best use is for fishing and it may support a trout population.
<https://www.dec.ny.gov/permits/6042.html>
7. There are no known instances of rare threatened or endangered species in the Proposed Map Amendment Area.
8. The Proposed Map Amendment Area contains a state highway Critical Environmental Area that would be eliminated if the map amendment application was granted.
9. Public sewer and water services are not currently available to the Proposed Map Amendment Area.
10. According to data obtained from Warren County Office of Real Property Tax Service and the NYS Office of Real Property Services (ORPS), the Proposed Map Amendment Area consists of fourteen parcels, described in the FSEIS.

ENVIRONMENTAL IMPACTS

Environmental Impacts would result from increases in the allowable density of development in the Proposed Map Amendment Area. These impacts are avoided by denial of the application and are described in the Final Supplemental Environmental Impact Statement published for this action, and detailed in the maps therein, showing the locations of sensitive resources, and summarized as follows:

1. Impacts to Water Resources: The requested action may lead to adverse impacts to surface and groundwater quality. This area contains a protected stream as classified by New York State Department of Environmental Conservation. Lake Vanare is located approximately 200 feet down stream of the of the Proposed Map Amendment Area and this area is adjacent to a mapped aquifer.

The Proposed Map Amendment Area is not served by municipal sewer facilities. One of the most important natural characteristics in determining the potential for development of land without access to municipal sewer treatment facilities are the types and depths of soils and their ability to accommodate construction and effectively treat on-site wastewater. Under the correct conditions, dry, well-drained soils, such as sand deposits, on appropriate slopes typically result in properly functioning septic systems. Soils with shallow

depth to the water table or bedrock do not have adequate depth to effectively treat septic effluent and can cause pollution to groundwater and/or nearby surface water. Approximately 77 acres, or 73% of the Proposed Map Amendment Area, are expected to have adequate soil and slope conditions to support on-site wastewater treatment systems.

Development at intensities permitted by Moderate Intensity Use can increase nutrient levels and contamination of adjacent waters. Excessive nutrients cause physical and biological change in waters which affect aquatic life. Surface water resources could be affected by activities which tend to disturb and remove stabilizing vegetation resulting in increased runoff, soil erosion, and stream sedimentation. Erosion and sedimentation may destroy aquatic life, ruin spawning areas, and increase flooding potential. The magnitude of the impacts will depend on future development that would result from the requested action, which is unknown at this time.

Denial of the application for a map amendment will not adversely impact water resources.

2. Adverse impacts to flora and fauna: The requested action to change to a less restrictive classification may lead to adverse impacts upon flora and fauna due to the potential increase in development adjacent to wetlands. An increase in development can lead to the degradation of habitat and disruption of wildlife movement patterns. The pollution of surface waters can also degrade wildlife habitat. The requested reclassification also has the potential to result in a loss of existing open space and natural vegetation, with associated adverse impacts upon wildlife. The area contains approximately 80 acres of an 11,900-acre forest block. Large forest blocks can provide habitat to area-sensitive species and may be more resilient to large-scale disturbances which maintain forest health over time. The requested action will not authorize a specific development project but will allow a higher intensity of development. The magnitude of the future impacts is unknown at this time. Denial of the application for a map amendment will not adversely impact flora and fauna.
3. Growth-inducing impacts of the requested map amendment and open space protection: There was considerable public comment regarding the potential loss of open space that the requested map amendment could lead to. Although the Town's Comprehensive Plan adopted in 2010 recommended development of a Trails and Open Space Plan, the Town has not developed such a plan.

Reclassifying the area could lead to a loss of open space and result indirectly in increased growth in the Proposed Map Amendment Area. SEQRA requires that the Agency review the growth-inducing impacts of a reclassification to a less restrictive classification. Moreover, the APA Act establishes open space protection as a key area of state interest. The FGEIS recognizes the

significance of open space issues and provides that open space is a resource characteristic worthy of protection, which "is inherent in the scheme of channeling development away from Resource Management and Rural Use areas." FGEIS at 26. The considerations weigh against granting the application to reclassify the Proposed Amp Amendment Area from Rural to Moderate Intensity Use. Denial of the application retains the Rural Use classification and will not induce growth or adversely impact open space resources.

CONCLUSIONS OF LAW

HAVING DULY CONSIDERED the above Findings of Fact, Environmental Impacts, the FGEIS, and the Findings Statement, the Agency makes the following Conclusions of Law:

1. The Agency has given consideration to the Final Generic Environmental Impact Statement, "The Process of Amending the Adirondack Park Private Land Use and Development Plan Map," August 1, 1979, and the Draft and Final Supplemental Environmental Impact Statements, and the Findings Statement. All requirements of 6 NYCRR Part 617 and 9 NYCRR Part 586 implementing Article 8 of the ECL (SEQR) have been met.
2. Reclassification of the Proposed Map Amendment Area from Rural Use to Moderate Intensity Use is not supported by the record, including the Town of Lake Luzerne's application, the public hearing record, the written public comments and responses from the applicant, under Sections 801 and 805 of the APA Act, NY Executive Law §§ 801 & 805, taking into account such existing natural resource, open space, public, economic, and other land use factors.
3. This Order is consistent with and reflects the regional nature of the land use and development plan and the regional scale and approach used in its preparation.

THE REQUEST having regularly come for consideration and due deliberation having been had, and the Agency having voted to deny the request without prejudice to filing a new application if additional or new information is available and provided to the Agency.

NOW, THEREFORE, based upon the request, the above Findings of Fact and Conclusions of Law, and the vote duly taken, it is

ORDERED that the above-described request for an amendment to the Official Adirondack Park Land Use and Development Plan Map for MA2019-01, in the Town of Lake Luzerne, Saratoga County, be denied without prejudice.

ADIRONDACK PARK AGENCY

By _____
Terry Martino
Executive Director

ORDER issued this _____
Day of _____ 2021

at Ray Brook, NY