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**Executive Director**

May 30, 2020

Matt Kendall  
NYS APA  
PO Box 99  
Ray Brook, NY 12977

**RE: APA Map Amendment 2020-1 in the Town of North Elba**

Dear Matt Kendall:

Please accept these comments from Protect the Adirondacks on the proposed Adirondack Park Agency (APA) amendment (MA-2020-1) to the Land Use and Development Plan map seeking to reclassify one of three alternatives, ranging in size from 32 to 44 acres, of Moderate Intensity Use to Hamlet in the Town of North Elba. This proposal marks a substantial expansion of the hamlet area around the Village of Lake Placid.

When a map amendment is proposed for a single ownership or small acreage, such as in the case of the Town of North Elba in MA-2020-1, it raises concerns that the proposal is in effect an effort to "spot zone" a tract of land or pursue some kind of political favor for a landowner. Protect the Adirondacks is concerned about the process undertaken by the Town of North Elba. We believe a map amendment submission by an Adirondack town is appropriate for consideration when it is the product of a natural resource analysis and inventory as part of a larger comprehensive community planning effort, which hopefully results in an APA approved local land use program or an update/amendment to an existing locally approved plan. Such comprehensive amendments, such as that approved for the Town of Chester, among others, often sees lands reclassified to both enhance and reduce protections and development opportunities.

Despite questions around the process used by the Town of North Elba in MA-2020-1, Protect the Adirondacks finds that the proposed Alternative 3 satisfies the criteria for a map amendment.

**Protect the Adirondacks**

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## Proposal to Change from Moderate Intensity Use to Hamlet

Under the APA Act, Moderate Intensity Use and Hamlet areas are very different land classifications.

Section 805 of the APA Act describes Moderate Intensity (MIU) Areas as:

(1) Character description. Moderate intensity use areas, delineated in red on the plan map, 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.

These areas are primarily located near or adjacent to hamlets to provide for residential expansion. They are also located along highways or accessible shorelines where existing development has established the character of the area.

Those areas identified as moderate intensity use where relatively intense development does not already exist are generally characterized by deep soils on moderate slopes and are readily accessible to existing hamlets.

(2) Purposes, policies and objectives. Moderate intensity use areas will provide for development opportunities in areas where development will not significantly harm the relatively tolerant physical and biological resources. These areas are designed to provide for residential expansion and growth and to accommodate uses related to residential uses in the vicinity of hamlets where community services can most readily and economically be provided. Such growth and the services related to it will generally be at less intense levels than in hamlet areas.

(3) Guidelines for overall intensity of development. The overall intensity of development for land located in any moderate intensity use area should not exceed approximately five hundred principal buildings per square mile.

Section 805 of the APA Act describes Hamlet (H) Areas as:

(1) Character description. Hamlet areas, delineated in brown on the plan map, range from large, varied communities that contain a sizeable permanent, seasonal and

transient populations with a great diversity of residential, commercial, tourist and industrial development and a high level of public services and facilities, to smaller, less varied communities with a lesser degree and diversity of development and a generally lower level of public services and facilities.

(2) Purposes, policies and objectives. Hamlet areas will serve as the service and growth centers in the park. They are intended to accommodate a large portion of the necessary and natural expansion of the park's housing, commercial and industrial activities. In these areas, a wide variety of housing, commercial, recreational, social and professional needs of the park's permanent, seasonal and transient populations will be met. The building intensities that may occur in such areas will allow a high and desirable level of public and institutional services to be economically feasible. Because a hamlet is concentrated in character and located in areas where existing development patterns indicate the demand for and viability of service and growth centers, these areas will discourage the haphazard location and dispersion of intense building development in the park's open space areas. These areas will continue to provide services to park residents and visitors and, in conjunction with other land use areas and activities on both private and public land, will provide a diversity of land uses that will satisfy the needs of a wide variety of people.

The delineation of hamlet areas on the plan map is designed to provide reasonable expansion areas for the existing hamlets, where the surrounding resources permit such expansion. Local government should take the initiative in suggesting appropriate expansions of the presently delineated hamlet boundaries, both prior to and at the time of enactment of local land use programs.

(3) All land uses and development are considered compatible with the character, purposes and objectives of hamlet areas.

(4) No overall intensity guideline is applicable to hamlet areas.

There are major differences between MIU and H areas. The difference in development rates is significant. MIU areas are zoned to allow a maximum of 500 principal dwellings per square mile, an average of one per 1.28 acres (640/500), whereas there are no overall intensity guidelines in a Hamlet area. It is recognized that the proposed change will facilitate a greater level of potential development on the 32 acres of Alternative 3.

## APA Criteria for Proposed Map Amendments

Section 583.2 of the APA's regulations provides that it will refer to the 9 "land use area classification determinants" in 9 NYCRR Appendix Q-8, as augmented by field inspection, in considering map amendment requests. Importantly, it also provides that "The agency will not consider as relevant to its determination any private land development proposals or any enacted or proposed local land use controls."

## APA's 9-Part Test for Assessing a Proposed Map Amendment

The 9 determinants are:

- A. Soil
- B. Topography
- C. Water
- D. Fragile Ecosystem
- E. Vegetation
- F. Wildlife
- G. Park Character
- H. Public Facility
- I. Existing Land Use

In its application, the Town of North Elba stated "The Town anticipates that the requested amendment would accommodate the continued necessary and natural expansion of Lake Placid's housing, commercial and industrial development." After review of Draft Supplemental Environmental Impact Statement (DSEIS), Protect the Adirondacks finds that the proposed map amendment MA-2020-1 Alternative 3 satisfies the nine tests required for a successful map amendment.

**Soil:** According to the DSEIS the soils in the lands in question are overwhelmingly conducive to development and suitable for a Hamlet area.

Alternative 3 satisfies the "soils" test.

**Topography:** The tract in question has few areas with steep slopes that would limit the viability of increased development. Alternative 3 has almost no slope issues.

Alternative 3 satisfies the "topography" test.

**Water:** According to the DSEIS, there are significant wetlands in the larger 44-acre proposal, but not in the smaller 32-acre proposal in Alternative 3. It makes sense to keep the wetlands out of the Hamlet area.

Alternative 3 satisfies the "water" test.

**Fragile Ecosystem:** The site contains no unique or threatened natural resources or ecological communities.

Alternative 3 satisfies the “fragile ecosystem” test.

**Vegetation:** While new development in an intact forest area negatively impacts vegetation, the Alternative 3 site is a highly altered and developed site.

Alternative 3 satisfies the “vegetation” test.

**Wildlife:** The lands in question are surrounded by roads, which cut off these lands from other larger intact forest areas. The existing Forest Preserve will continue to buffer the new Hamlet area. Given the highly developed condition of the existing lands in Alternative 3, there will be no negative impact to wildlife in the change to Hamlet.

Alternative 3 satisfies the “wildlife” test.

**Park Character:** This part of North Elba is heavily developed with strip commercial development along Route 86, including the Price Chopper plaza, which borders the lands in question. Though the lands in question border a small isolated tract of Forest Preserve, the “park character” in this area is that of commercial hamlet lands.

Alternative 3 satisfies the “park character” test.

**Public Facility:** The proposed map amendment does not appear to impact any public facilities. The lands in question are/will be serviced by municipal water/sewer.

Alternative 3 satisfies the “public facility” test.

**Existing Land Use:** The main tract is classified as Industrial under the Town of North Elba code. The lands in question includes a large former laboratory building, parking lots, buildings, and a large cleared field.

Alternative 3 satisfies the “existing land use” test.

Based on the foregoing MA-2020-1 satisfies the nine tests that a proposed amendment needs to pass in order to be approved.

#### Possible APA Approval

Section 805(2)(c)(1) of the APA Act requires “an affirmative vote of two-thirds of the APA members” to amend the Official Map as sought here. 9 NYCRR 583.6 states: “Eight affirmative votes shall be required for the agency to grant any map amendment whenever a two-thirds vote is statutorily required.”

#### Conclusion

We support approval of MA-2020-1 Alternative 3.

On behalf of the Board of Directors of Protect the Adirondacks, please accept our gratitude for the opportunity to present our concerns about proposed APA map amendment in the Town of North Elba.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Bauer". The signature is fluid and cursive, with the first name "Peter" and last name "Bauer" clearly distinguishable.

Peter Bauer,  
Executive Director