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Peter Bauer *Executive Director* June 2, 2020

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

RE: APA Map Amendment 2019-1 in the Town of Lake Luzerne

Dear Matt Kendall:

Please accept these comments from Protect the Adirondacks on the proposed Adirondack Park Agency (APA) amendment (MA-2019-1) to the Land Use and Development Plan map seeking to reclassify 105 acres from Rural Use to Moderate Intensity Use. Protect the Adirondacks opposes the proposed amendment to the Official Map seeking to reclassify 105 acres of Rural Use lands in the watershed of Lake Vanare to Moderate Intensity Use. The amendment, which would result in a 6-fold increase in the amount of development allowed on the lands in question, utterly fails to meet the applicable legal criteria.

When a map amendment is proposed for a single ownership or small acreage, such as in the case of the Town of Lake Luzerne in MA-20190-1, 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 Lake Luzerne to propose a map amendment that largely benefits one landowner. 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 zoning densities.

Proposal to Change from Rural Use to Moderate Intensity Use

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

Section 805 of the APA Act describes Rural Use (RU) as:

(1) Character description. Rural use areas, delineated in yellow on the plan map, are those areas where natural resource limitations and public considerations necessitate fairly stringent development constraints. These areas are characterized by substantial acreages of one or more of the following: fairly shallow soils, relatively severe slopes, significant ecotones, critical wildlife habitats, proximity to scenic vistas or key public lands. In addition, these areas are frequently remote from existing hamlet areas or are not readily accessible.

Consequently, these areas are characterized by a low level of development and variety of rural uses that are generally compatible with the protection of the relatively intolerant natural resources and the preservation of open space. These areas and the resource management areas provide the essential open space atmosphere that characterizes the park.

(2) Purposes, policies and objectives. The basic purpose and objective of rural use areas is to provide for and encourage those rural land uses that are consistent and compatible with the relatively low tolerance of the areas' natural resources and the preservation of the open spaces that are essential and basic to the unique character of the park. Another objective of rural use areas is to prevent strip development along major travel corridors in order to enhance the aesthetic and economic benefit derived from a park atmosphere along these corridors.

Residential development and related development and uses should occur on large lots or in relatively small clusters on carefully selected and well designed sites. This will provide for further diversity in residential and related development opportunities in the park.

(3) Guideline for overall intensity of development. The overall intensity of development for land located in any rural use area should not exceed approximately seventy-five principal buildings per square mile. Section 805 of the APA Act describes Moderate Intensity Use (MIU) Areas as:

d. Moderate intensity use areas.

(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.

There are major differences between RU and MIU areas. Rural Use areas are lands where "the preservation of the open spaces" are "essential and basic to the unique character of the park." 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). Rural Use areas are zoned to allow a maximum of 75 principal dwellings per square square square mile, an average of one per 8.53 acres (640/75). The proposed

reclassification would allow an increase from 12-13 principal buildings on the 105 acres to 82.

There are, of course, major differences between the intensity of development allowed in RU and MIU areas. Where the APA has permit jurisdiction, the overall intensity guidelines require an average lot size of 8.53 acres in RU, but only 1.28 acres in MIU (and it has far less permit jurisdiction in MIU than it does in RU). If all subdivision on 105 acres of RU required an APA permit, 13 principal buildings would be allowed; in the case of MIU, 82, a more than 6-fold increase.

A 6-fold increase is a major change by any standard and merits scrutiny.

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 Lake Luzerne stated "the land under consideration for the action reflects the same characteristics as the adjacent Moderate Intensity Use lands and the classification change would reflect the current usage." The Town also states that there "would be an economic benefit to the Town from this reclassification action." Protect the Adirondacks disputes both statements. We also point out that neither the regulations nor Appendix Q-8 include an "economic benefit" test. After review of the Draft Supplemental Environmental Impact Statement (DSEIS), we find that MA 2019-1 fails 6 of the 9 tests required for a successful map amendment.

Soil: The DSEIS states that 73% of the proposed lands "contains soils that are expected to pose few limitations for on-site wastewater treatment systems." (p.13) This, of course, means that more than 25% of the 105 acres have soils that are inadequate for development. The 105 acres in question are not served by municipal sewer facilities.

That 27% of the tract is unsuitable for development raises many questions about a change from lands that currently could be lightly developed to lands that are heavily developed.

This proposal fails the "soils" test.

Topography: The tract in question has few areas with steep slopes that would limit the viability of increased development, with 98% of the site containing slopes of less than 15%. (p. 14)

Water: The DSEIS states "The proposed 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 the area is adjacent to a mapped aquifer." (p. 19) It's difficult to predict the impacts to water resources from the potential changes to the 105 acres in question.

Fragile Ecosystem: The proposed tract is part of a larger area that has been identified for its ecological importance. The DSEIS states "Approximately 80 acres of the area are within an 11,800-acre area identified 'regionally important' forest block by the Wildlife Conservation Society (WCS). WCS identifies these areas due to their size (6,000 acres – 15,000 acres). This forest block is one of 115 regionally important forest blocks identified in the Adirondack Park." (p 17) The proposed map amendment, which could lead to a 6-fold increase in development, would be detrimental to these lands.

This proposal fails the "fragile ecosystem" test.

Vegetation: New development in an intact forest area negatively impacts vegetation. Research by the Wildlife Conservation Society has shown that development changes the composition of the forest understory and edge species. (p. 17) Through a standard ecological impact zone analysis, using a 200 meter impact zone, the impacts of 82 principal buildings spread throughout 105 acres would dramatically change and negatively impact the vegetation throughout this tract.

This proposal fails the "vegetation" test.

Wildlife: New development in an intact forest area negatively impacts wildlife. Research by the Wildlife Conservation Society (WCS) has shown that development in a forest area changes the composition of birds, amphibians, rodents, and small mammals. Through a standard ecological impact zone analysis, using a 200 meter impact zone, the impacts of 82 principal buildings spread throughout 105 acres would dramatically impact wildlife on this tract.

A WCS study "Make Room for Wildlife: A Resource for Landowners in the Northern Forest" (2013) states: "The impacts on wildlife from development can extend away from the house, up to 600 feet. This is due to factors like noise, nighttime lighting, use of pesticides, pets running free, and physical changes to the forest. As a result, a new house has a 'wildlife shadow' of 15 – 30 acres." (p. 2) The study also states: "When residential development occurs, wildlife often still live nearby, but the species tend to be different. Development creates conditions that attract generalist species (common species able to use a wide range of resources for food and shelter) like raccoons and blue jays, while more rare, specialized species such as martens and warblers do not thrive near houses. Scientists refer to this as biotic homogenization or a loss of biotic integrity." (p. 2)

The WCS study is attached.

This proposal fails the "wildlife" test.

Park Character: This part of Lake Luzerne is characterized by strip commercial development on Route 9N and small rural shoreline lots on Lake Vanare. There are many more open lots than camps on Hidden Valley Road, which is characterized by sparse rural development. The DSEIS states "To the extent that development occurs as a result of a map amendment, the consequent loss of forest and open space resources and degradation of water quality are the primary irreversible commitment of resources." (p. 20) The changes to the character of the area from as many as 82 principal buildings spread throughout 105 acres would be significant.

This proposal fails the "park character" test.

Public Facility: The proposed map amendment does not appear to impact any public facilities. The DSEIS states "There are no public sewer or water facilities available to Proposed Map Amendment." (p 10)

Existing Land Use: This proposal would facilitate more intensive development in an area that is currently lightly developed in the upper reaches of the Lake Vanare watershed. The DSEIS states "According to data obtained from the County and ORPS, the requested map amendment area consists of all or a portion of three commercial parcels, three residential parcels, two recreation and entertainment parcels, five vacant parcels, and one private forest lands parcel." (p. 11) The map amendment would zone these lands for over 80 principal buildings.

This proposal fails the "existing land use" test.

Based on the foregoing MA-2019-1 fails 6 of the 9 tests that a proposed amendment needs to pass in order to be approved and should be denied.

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."

Climate Change

Under the 2019 Climate Leadership and Community Protection Act (CLCPA), state agencies are supposed to weigh the impact of climate change in their decisions. Section 7(2) of CLCPA requires all State agencies to determine whether their administrative approvals are consistent with the attainment of, or will interfere with the attainment of, the statewide greenhouse gas emission limits in ECL Article 75. If inconsistent, they are required to explain why, and to identify alternatives or mitigation measures. In this case, the directive to the APA from CLCPA is to assess the impacts of possibly adding 70+/-buildings to this area. In his book "Climate Change in the Adirondacks" (2010) scientist Jerry Jenkins calculated that construction of a new 2,060-square-foot house creates a 4 ton carbon debt. (p 139) Even more important is the carbon debt that Jenkins calculates from the clearing of forest land for a building lot. Jenkins assesses the loss of carbon storage and the release of carbon into the atmosphere from forest clearing. Jenkins wrote "Clearing an acre of forest creates a debt of 257 tons." Clearly the development of 105 acres under MIU density would lead to significantly more land clearing and carbon pollution. The APA must comply with CLCPA in its decision on MA-2019-1.

Conclusion

The proposed map amendment MA-2019-1 should be denied.

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

Sincerely,

Allan -

Peter Bauer, Executive Director

MAKE ROOM FOR WILDLIFE: A RESOURCE FOR LANDOWNERS IN THE NORTHERN FOREST

Wildlife Conservation Society





WILDLIFE AND PRIVATE LANDS

This pamphlet will help landowners in the Northern Forest consider wildlife when managing their property or building a home. Although some large expanses of habitat in this region are protected by state and federal governments, many animals require or prefer habitats found on privately owned lands. Other species must travel long distances across a mix of public and private lands to meet their basic needs. To maintain the native wildlife found here, Northern Forest residents must be thoughtful and smart about how to live on our private lands.

Decisions—both small and large—made by landowners have as much power as state and federal agencies in determining the future of wildlife in this region.

Habitat loss and fragmentation are two of the most significant threats facing wildlife. However, landowners can make informed decisions that will minimize adverse effects and protect wildlife.

IF A HOUSE "FALLS" IN A FOREST, DO THE WILDLIFE "HEAR" IT?



WCS has been studying the impact that houses have on wildlife, and through our research we have learned that even if a house is surrounded by native vegetation (such as forest), it changes the wildlife community in ways that are measurable.



• The impacts on wildlife from development can extend away from the house, up to 600 feet. This is due to factors like noise, nighttime lighting, use of pesticides, pets running free, and physical changes to the forest. As a result, a new house has a "wildlife shadow" of 15 - 30 acres.



• When residential development occurs, wildlife often still live nearby, but the species tend to be different. Development creates conditions that attract generalist species (common species able to use a wide range of resources for food and shelter) like raccoons and blue jays, while more rare, specialized species such as martens and warblers do not thrive near houses. Scientists refer to this as biotic homogenization or a loss of biotic integrity.

WHAT ROLE DOES YOUR LAND PLAY?

As wildlife travel through our human landscape, they rely on a combination of landscape features to ensure safe passage.

Core habitat

Large blocks of contiguous forest provide the necessary habitat for animals to find food and shelter, and to reproduce. In order to maintain healthy populations and genetic diversity, however, animals must be able to move between these large blocks of habitat.

Riparian areas Rivers, streams and their banks provide important habitat along which animals often travel. Maintaining cover (trees and shrubs) in these areas provides safer and more secure corridors for wildlife.

> Once you have identified habitat features important to wildlife, see Making Wildlife-Sensitive Decisions for ideas about how to preserve them.

Stepping stones These smaller forest blocks provide important cover and food as animals roam between blocks of core habitat.

Road crossings

Having areas along busy roads that make them easier for wildlife to cross is essential for animals to roam on the land. These areas tend to have forest or wetlands close to the road, no guard rails, gentle terrain, and sometimes wildlife crossing structures.

Where does your land fit in?

Hedgerows

Many Northern Forest species prefer not to pass through open or agricultural areas, and take advantage of the cover provided by hedgerows between fields.

IF YOU CHOOSE TO BUILD A HOME

Your house will permanently change the landscape; take time to think carefully about how you can make sensitive decisions while maximizing your own enjoyment of your property.

Know your site

Take the time to get to know your property; learn about its natural features and the wildlife habitats it provides, such as wetlands, riparian areas (near waterbodies), mature forests, nesting and wintering sites, vernal pools and other features. Once you have identified these features (with help from a naturalist and forester if necessary), you will be better able to plan to protect them.

Think about your site in context

Your property may offer a locally unique attribute (such as the only stand of conifer trees for miles). It may be part of a large connected forest, or the only block of forest in a sea of farmland. Factors like these influence the ecological role of your land; consider these before you decide how to develop your site.

Design and landscape thoughtfully

This is your best opportunity to address many long-term issues in your house. For example, size and site glass windows appropriately or use bird-friendly glass to prevent bird mortality. Plan to use native, non-invasive plants when landscaping.

Build carefully

Select a contractor who will be responsive to your desire to minimize environmental impacts. Mark trees and snags to protect and be clear about a no-impact zone. Avoid undertaking construction in relevant locations during critical amphibian movement periods or bird nesting seasons. Plan and budget for post-construction restoration. The most important decision: where to build your home Once you are armed with information and perspective about the natural value of your property, you are ready to think about how to develop the site sensitively. Here are some guiding questions to help you make these decisions:

• What steps can you take to protect the natural features that you have identified through your research? Remember to think BOTH about the features on the site and the big picture of your land's regional context.

• Can you site the house on or near part of the property that has been cleared previously or has been heavily impacted by human activities in the past?

- Can you achieve adequate privacy while building reasonably close to the parcel boundary, neighbors' houses, or the road? Your home will have a "wildlife shadow"—area of impact—of 15 - 30 acres. By keeping the driveway short and locating the house close to other structures, you will maximize the space available for wildlife.
- Can you maintain buffers from sensitive features? Clearing and building should ideally not occur within 300 feet of sensitive habitats like rivers, lakes, streams and wetlands.

MAKING WILDLIFE-SENSITIVE DECISIONS

If you own or manage land in the Northern Forest, you make decisions that affect wildlife and the environment.

- Maximize ecological connectivity

You can do this by: keeping large stands of forest or habitat intact; concentrating ecological disturbances at the edge of large blocks of habitat; and by maintaining and improving connecting features such as vegetated riparian buffers alongside streams and lakes, or hedgerows through fields. The wider these features can be, the more species they will serve. Try for buffer widths of 100 feet or more.



- Maintain healthy habitat

You can do this by: protecting important ecological features such as vernal pools from disturbance; letting natural processes dominate (for example, maintaining native plants and letting deadfall decompose in place); and by planning for the needs of particular species.



- Minimize ecological disturbances

You can do this by: minimizing the amount of pavement and hardened surface you introduce, including the length and width of roads; using best practices for erosion and sediment control; or by harvesting carefully if you are logging your land.



Create and restore habitat

You can do this by: improving degraded areas of your property with vegetation; removing non-native plants and planting native species in their place; and adding habitat opportunities such as nest boxes.



WHAT: Take birdfeeders down from May to September.

WHY: Birds have ample natural foods during the summer, and birdfeeders left up in the summer can attract bears or other unwanted wildlife to your yard.



WHAT: Minimize outdoor lighting and select light fixtures that direct light downward to where it is needed by humans, not out and up to where it creates light pollution. Close your blinds at night to cover large, brightly lit windows. WHY: Night lighting is disorienting to wildlife and can adversely affect animals.



WHAT: Clean your grill regularly, or keep it in your garage or shed.

WHY: Bears have an excellent sense of smell, and they can be attracted to small pieces of food or grease on the grill. Once habituated to human food sources such as grills, bears often become increasingly problematic.



WHAT: Don't leave garbage outside overnight. WHY: Trash is another human food source that can attract bears and other animals. By minimizing unwanted interactions with wildlife, you can protect your own property and safety and also the health of wildlife.



A WILDLIFE-SENSITIVE HOME IN THE NORTHERN FOREST

Whether you are building a new home or making management decisions in your existing home, you have a variety of opportunities to minimize adverse impacts and maximize benefits to wildlife.



PLANNING FOR THE FUTURE OF YOUR LAND

You can have a lasting legacy of stewardship

Think beyond subdivision. Keeping your land intact is one of the best ways to protect ecological connectivity. Check out the ideas below on alternatives to subdivision.

• Gather information. Learn about natural features and wildlife on your land as a great step towards careful management of it, for you or for future stewards.

• Consider an easement. Conservation easements allow you to protect your land from development in perpetuity, even if you sell the land. Easements have tax benefits as well, and you can determine the terms that work for you. Your local land trust can help you learn about the process and your options.

• Learn about alternative revenue opportunities. If you feel the need to sell or subdivide to pay your property taxes, you may be able to generate revenue with the help of government-funded land and habitat management programs, well-managed forestry, or alternative opportunities such as emerging markets for carbon sequestration and other ecosystem services.

• Get help. Estate planners can help you think about the tax considerations and the family implications of your long-term planning decisions. Consulting foresters can provide insights about potential revenue options. The Natural Resources Conservation Service manages several habitat management programs.

Long-term thinking will benefit not just wildlife. You will also be protecting air and water quality, reducing the severity of flooding, keeping land available for traditional economic and recreational activities, and maintaining the rural character of our landscape.

GETTING STARTED

There are many resources available to help you learn more about opportunities to protect the wildlife on your land. You may want to seek out other organizations: from state agencies to non-profits, many groups can help you be a good steward. WCS staff are also happy to answer questions; please contact us. Additional resources and links on this topic are also available at our website, www.wcsadirondacks.org.

ABOUT US

The Wildlife Conservation Society (WCS) saves wildlife and wild lands through careful science, international conservation, education, and the management of the world's largest system of urban wildlife parks.

WCS's Adirondack Program is based in Saranac Lake, NY. WCS is a partner in the Staying Connected Initiative (SCI), a transboundary collaborative to maintain and restore a network of connected lands for wildlife across the region.

WCS' Make Room for Wildlife Program has received generous support from the Doris Duke Charitable Foundation through the Wildlife Action Opportunities Fund, International Paper Foundation, and SCI's US Fish and Wildlife Service Competitve State Wildlife Grant.







common loon





evening grosbeak

WHICH WILDLIFE WILL THANK YOU?

Wide-ranging animals

Black bear, bobcat, marten, and moose are examples of species that need lots of space and will appreciate planning that protects large, well-connected forest blocks. Conserving ecological connections may require coordination between multiple landowners since wildlife do not heed property boundaries. These efforts will help maintain healthy wildlife populations.

Amphibians and reptiles

Amphibians and reptiles are particularly susceptible to the impacts of roads and other fragmenting features because they use a variety of habitat types during their life cycle. Some, like turtles, do not even begin to reproduce until they are quite old (> 20 years). Knowing the parts of your property that are most important for these animals will allow you to avoid building structures or roads near these critical habitats.

Interior forest dwellers

Edges between forests and openings like roads or lawns pose many dangers, and some species will not use forests that are fragmented by roads and houses. Maintaining large forest blocks with plenty of interior habitat will ensure suitable areas for species like scarlet tanager, ovenbird and American marten.

Small mammals

Species such as shrews, voles and flying squirrels are an important part of the food chain and the ecosystem of the Northern Forest. Maintaining snags and downed woody debris provides habitat for these animals. Minimizing driveways, roads and the size of lawns helps curb threats to these species—as does keeping domestic pets indoors.

Aquatic birds and mammals

Whether an animal lives on a lake, stream or river, or simply uses these features for periodic habitat or as travel corridors, these aquatic habitats are essential. Buffering water features from shoreline development and enhancing riparian corridors with native plants protects water quality and the value of these ecosystems for wildlife.







salamander





NDACK PROGRAM Saranac Lake, New York 518-891-8872 ~ www.wcsadirondacks.org accp@wcs.org

This brochure is printed on donated paper made at International Paper's Ticonderoga Mill, from trees harvested in working Adirondack forests managed in accordance with the principles of the Sustainable Forestry Initiative and the Forest Stewardship Council.

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