



Board of Directors

April 11, 2022

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Adirondack Park Agency

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PO Box 99
Ray Brook, NY 12977

Barbara Rottier
Secretary

**RE: Public Comments on Whiteface Mountain Intensive Use Area Unit
Management Plan Amendment**

David Quinn
Treasurer

Dear Ms. Phillips:

Nancy Bernstein
John Caffry
Andy Coney
Dean Cook
James C. Dawson
Lorraine Duvall
Robert Glennon
Roger Gray
Evelyn Greene
Sidney Haring
Dale Jeffers
Mark Lawton
John Nemjo
Peter O'Shea
Philip Terrie
Chris Walsh

Protect the Adirondacks has reviewed the final Whiteface Mountain Intensive Use Area Unit Management Plan Amendment ("WMIUA Amendment") submitted to the Adirondack Park Agency (APA) by the Olympic Regional Development Authority (ORDA). We offer the following comments to the APA with regards to conformance with the Adirondack Park State Land Master Plan ("APSLMP"). The APSLMP states:

If there is a unifying theme to the master plan, it is that the protection and preservation of the natural resources of the state lands within the Park must be paramount. Human use and enjoyment of those lands should be permitted and encouraged, so long as the resources in their physical and biological context as well as their social or psychological aspects are not degraded. This theme is drawn not only from the Adirondack Park Agency Act (Article 27 of the Executive Law – "The Act") and its legislative history, but also from a century of the public's demonstrated attitude toward the forest preserve and the Adirondack Park. (p. 1)

Peter Bauer
Executive Director

Compliance of Alpine Ski Trails with Two Whiteface Mountain Article 14 Amendments

The new WMIUA Amendment provides updated data about its compliance with the two amendments to New York Constitution Article 14, Section 1, that authorized the initial construction of the Whiteface Mountain Ski Center

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and its expansion. The WMIUA amendment states that with the planned new trails it will remain under the 25-mile cap for alpine ski trails, which appropriately includes “glade” trails. It’s also important to recognize that there are no State Constitution tree cutting limits on the 25 miles of alpine ski trails authorized in the two amendments, other than the limits on trail width and trail mileage. While the APSLMP states that it is constitutionally neutral, it’s important to note that as far as operating the Whiteface Mountain alpine ski trails and necessary appurtenances, it appears that ORDA is generally in compliance with these two amendments.

We do, however, have concerns about the widening of Upper Parkway and Upper Thruway, because it appears that there will no longer be any forest between them, creating one, much wider trail for a stretch. ORDA states these are two trails, though they appear as one. The width of this new super-wide trail appears to exceed limits imposed in the Whiteface Article 14 amendments.

Compliance of Proposed Hiking and Mountain Bike Trails with Article 14

There are other issues, relative to tree cutting, terrain alteration, and trail widths on hiking and mountain bike trails, which are activities not covered by the alpine winter ski area amendments, that must be resolved to ensure that the WMIUA Amendment complies with the State Constitution.

ORDA asserts that the use of alpine ski trails and appurtenances, such as lifts, parking lots, roads, and buildings, for sight-seeing, hiking, and mountain biking activities is not prohibited by Article 14. Use of the word “appurtenances” in the 1941 Whiteface Mountain amendment has consistently been taken to mean only the infrastructure that supports downhill skiing. The phrase “together with appurtenances thereto” is used not only for Whiteface Mountain, but also for the Gore Mountain and Belleayre Mountain ski areas that were similarly approved through constitutional amendments. The infrastructure to support downhill skiing has been taken to include ski lifts (from T bars to chair lifts to gondolas), snowmaking systems of pumps, sprayers, and water pipes, base lodges, maintenance buildings, ski racing association buildings, reservoirs, and parking lots. Merriam Webster’s Collegiate Dictionary, 10th ed., says an appurtenance is “ ... (b) “a subordinate part or adjunct,” and “(c) accessory objects.”

The 1941 Article 14 amendment authorized “appurtenances” to support “ski trails” at Whiteface Mountain. Facilities, infrastructure, and improvements for summertime non-alpine ski related activities, such as hiking and mountain bike riding, are not “appurtenances” that support alpine skiing. A mountain bike trail can hardly be considered to be a subordinate part or accessory object of a downhill ski area. Riding a bike does not require skis, nor is it part of the sport of skiing.

PROTECT does not believe that the proposed downhill mountain biking trail network and hiking trails at Whiteface Mountain are covered by the 1941 constitutional amendment under the “appurtenances” umbrella. These trails must be analyzed under the generally applicable limits to trail construction that apply elsewhere in the Forest Preserve.

The plan references a “skills park” for mountain biking. We do not see how this facility is covered as an alpine ski area “appurtenance.” We question the legality of this facility, as it does not comply with the APSLMP.

Approval of New Mountain Bike Trails and Hiking Trails Should be Delayed Until Specific Information is Provided

ORDA’s plans to expand the mileage of hiking trails by 4 miles, and make “improvements” to another 5 miles of trails. ORDA plans to expand the mileage of mountain bike trails by 9 miles, and make “improvements” to another 10 miles of trails, including 4 miles on alpine ski trails. This marks a major expansion of these activities in the WMIUA. While ORDA has provided maps that show these routes, and provided the mileage for new and existing routes, they have not provided important information about trail widths and tree cutting.

Given the important information that is not provided about how the new hiking and mountain bike trails will be constructed we do not see how a determination about APSLMP and Article 14 conformance can be made. The plan does not provide trail widths, or a description of materials, terrain alteration, and estimated tree cutting. On page 156 of the WMIUA Amendment, ORDA states “no trail construction will occur until DEC has finalized the comprehensive review of applicable trail construction policies. All proposed trail work will be reviewed in accordance with that policy, and final siting and design must be approved through the updated Work Plan process. All proposed trails will also comply with the revised NYSDEC Management Guidelines for Siting, Construction and Maintenance of Singletrack Bicycle Trails on Forest Preserve Lands in the Adirondack and Catskill Parks.” We commend ORDA for facing reality and suspending further actions on these trails until these vital constitutional issues are resolved.

As it stands now, the “comprehensive review of applicable trail construction policies” is incomplete and there is no “revised” NYSDEC-APA Management Guidelines for Siting, Construction and Maintenance of Singletrack Bicycle Trails on Forest Preserve Lands in the Adirondack and Catskill Parks. The APA’s responsibility is to evaluate ORDA’s proposed amendment for conformance with the APSLMP. That evaluation cannot be completed with regards to new hiking and mountain bike trails given uncertainties about tree cutting, trail widths, terrain alterations, and types of materials to be used.

Bicknell’s Thrush Habitat

PROTECT is pleased to see that the WMIUA amendment lays out a plan that attempts to protect Bicknell’s thrush habitat and mitigate negative impacts during breeding and nesting season.

Compliance with the Mountain Bike Trail Guidance

The WMIUA amendment states that ORDA plans to construct new trails consistent with the APA-DEC Mountain Bike Trails Guidance. Trail widths are important with regards to the

Guidance. We do not see how 72"-wide mountain bike trails conform with the Guidance for mountain bike trails. The widest trail tread authorized in the Guidance is 36 inches.

On behalf of the Board of Directors of the Protect the Adirondacks, please let me express our gratitude for the opportunity to submit these public comments on this UMP amendment.

Sincerely,

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

Peter Bauer
Executive Director