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Via Email: RPcomments@apa.ny.gov

May 22, 2025

Devan Korn
Adirondack Park Agency
P.O. Box 99
Ray Brook, NY 12977

**Re: APA Project 2024-0233; Brian Knapp
Alstead Hill Road, Town of Keene
Tax Parcel 44.3-1-67.110
Essex County**

Dear Mr. Korn:

Protect the Adirondacks ("PROTECT") appreciates the opportunity to provide comments on the above-referenced project, which involves subdivision of approximately 67 acres on the south side of Alstead Hill Road to create seven new residential building lots (the "Maple Ridge Subdivision"). Each lot in the Maple Ridge Subdivision would be developed with one single-family dwelling, an on-site wastewater treatment system, and an individual well water supply. The project site is designated as Rural Use on the Adirondack Park Land Use and Development Plan Map and, as a Class A regional project, requires a permit from the Adirondack Park Agency (APA) pursuant to Adirondack Park Agency Act §§ 809(2) and 810(1)(d)(1)(b).

As discussed below, PROTECT opposes the permitting of the proposed subdivision in its current form because (i) the APA lacks sufficient baseline natural resource data to fully assess the project's environmental impacts, and (ii) the proposed subdivision design fails to incorporate essential conservation design principles appropriate for Rural Use areas.

Natural Resource Concerns

Five of the seven proposed lots include ecologically sensitive wetlands that are protected under New York State law. Instead of avoiding development in or near these areas, the applicant proposes to locate buildings, impervious surfaces, and sewage disposal systems in close proximity to wetlands and at least one

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mapped stream through the property (the stream on Lot 8 identified by the Agency’s Biologist Mary O’Dell is not shown on the applicant’s maps). PROTECT is concerned that the standard 100-foot wetland setback (9 NYCRR § 578.3(a)) is insufficient to protect these wetlands from potential stormwater pollution, including runoff containing pesticides, herbicides, fertilizers, and other nonpoint-source contaminants typically associated with residential use. In addition, the house and septic tank on Lot 4 are proposed to be sited just slightly beyond 100 feet of the wetlands and the house is proposed to be located within 100 feet of the stream on that lot (*see* Sheet 2 [dated April 21, 2025] with the stream labeled, and Sheet 3 [dated April 21, 2025] with the septic labeled but not the stream). In its review of project applications, the Agency is authorized to “take into consideration any possible adverse impact upon the Adirondack Park resources, [including] possible water contamination from . . . sewage systems.” *Friedman v. Adirondack Park Agency*, 165 A.D.2d 33, 37 (3d Dept. 1991).

In addition, our review of the project file (obtained via a Freedom of Information Law request) indicates that APA wetland staff conducted wetland site inspections in September 2024 and March 2025—outside the appropriate seasonal window for identifying vernal pools that serve as critical amphibian breeding habitats. These vernal pools are now protected under amendments to the Freshwater Wetlands Act that took effect January 1, 2025. The omission of a vernal pool assessment in this review renders the Agency’s natural resource evaluation incomplete and noncompliant with its statutory obligations under the amended law.

The Proposed Subdivision Fails to Comply With Conservation Design Principles

Conservation design is a planning approach that seeks to preserve natural features and ecological functions while allowing for environmentally responsible development. The key principles of conservation design include identification and protection of natural resources on a project site such as intact forests, wetlands, steep slopes, wildlife habitat and water bodies; clustering development in less ecologically sensitive areas to minimize environmental impacts and preserve large, contiguous tracts of open space; minimizing impervious surfaces and maintaining natural hydrology; providing buffers around wetlands, streams and other ecologically sensitive areas; and maintaining connectivity for wildlife movement and ecosystem function.

The proposed subdivision—with lots ranging in size from 3.9 to 22.2 acres, dispersed over approximately 60 acres of land—does not reflect these principles. The subdivision design fragments open space and places development close to wetlands. Rather than clustering homes and related infrastructure in less sensitive areas to protect ecologically significant areas and preserve large, contiguous tracts of open land, the current design spreads impacts throughout the landscape.

Conservation design is especially critical for lands designated as Rural Use. The APA Act notes that Rural Use areas typically feature shallow soils, relatively severe slopes, significant ecotones, critical wildlife habitats, proximity to scenic vistas or public lands. Executive Law § 805(3)(f)(1). Consequently, development in these areas must be “compatible with the protection of the relatively intolerant natural resources and the preservation of open space.” *Id.* § 805(3)(f)(2).

By dispersing development across an ecologically sensitive site, the current subdivision proposal runs counter to the APA Act's statutory objective to protect open space and avoid fragmentation in Rural Use areas. The current design also runs afoul of the APA Act's mandate that "residential development and related development and uses should occur . . . in relatively small clusters" in Rural Use areas. *Id.* § 805(3)(f)(2)

Conclusion

For the reasons outlined above, PROTECT urges the APA to (i) conduct a site inspection during the appropriate seasonal window to determine whether ecologically significant vernal pools are present on the site; and (ii) require a redesign of the subdivision to apply conservation design principles—specifically, clustering development away from wetland areas and consolidating infrastructure to preserve open space and protect sensitive resources.

On behalf of the Board of Directors of PROTECT, please accept our gratitude for the opportunity to share our comments on this proposed project.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Amato", with a stylized flourish at the end.

Christopher Amato
Conservation Director and Counsel