



**KATHY HOCHUL**  
Governor

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In the Matter of the Application of

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

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**ORDER**

**MA 2021-01**

**SUMMARY**

The Adirondack Park Agency (Agency) received an application for two amendments to the Official Adirondack Park Land Use and Development Plan Map in the Town of Warrensburg, Warren County pursuant to Section 805 (2) (c) (1) of the Adirondack Park Agency Act (Executive Law, Article 27). Area 1 is approximately 21.9 acres and currently classified as Low Intensity Use. Area 2 is approximately 65.9 acres in size and currently classified as Rural Use. The Town has requested that these two areas be reclassified as Hamlet.

The Proposed Map Amendment Areas are defined by regional boundaries as described in the Agency's Final Generic Environmental Impact Statement on the map amendment process (August 1, 1979) (FGEIS).

As part of its review, the Agency evaluated the potential for alternative actions in each area. In Area 1, the Agency considered a "No Action" alternative that would leave Area 1 as Low Intensity Use, explored an alternative boundary that would avoid physical constraints in the area, and examined the potential to reclassify Area 1 with an intermediate classification, Moderate Intensity Use. In Area 2, the Agency also considered a "No Action" alternative that would leave the area Rural Use, explored alternative boundaries that would avoid resource constraints, and evaluated the potential for an intermediate classification including Low Intensity Use or Moderate Intensity Use.

Pursuant to the State Environmental Quality Review Act (Environmental Conservation Law, Article 8) and APA Act §§ 805(2)(c)(1) and 805(2)(c)(2), the Agency published a Draft Supplemental Environmental Impact Statement (DSEIS) on December 16, 2021, accepted public comments until February 4, 2022, and held a combined public hearing on both the proposed map amendment and the DSEIS on January 19, 2022. The Agency received written comments from five individuals and organizations. Four people spoke or asked questions during the public hearing. On March \_\_, 2022, 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 March \_\_, 2022.

After review of the FSEIS, 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 Adirondack Park Agency Act, the Agency approves the reclassification of the 21.9-acre Area 1 from Low Intensity Use to Moderate Intensity Use.

The record before the Agency is inadequate to support the application for a map amendment for Area 2. 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 Part 583, and the FGEIS, the Agency denies the request for the reclassification of the Area 2 from Rural Use to Hamlet, without prejudice to the applicant to file an application in the future for reclassification of these lands with new or additional information.

## **FINDINGS OF FACT**

### **AREA 1**

1. Area 1 is approximately 21.9 acres and is described as follows:  
Beginning at a point at the intersection of the centerlines of NYS Rt 418 and Milton Street; thence in a westerly direction along the centerline of NYS Rt 418 for a distance of approximately 1,800 feet to a point on the centerline of an electric transmission line; thence in a northerly direction along the centerline of the transmission line to a point on the shoreline of the Schroon River; thence in a northeasterly direction along the shoreline of the River to a point at the centerline of Milton Street; thence in a southeasterly direction along the centerline of Milton Street to the point of beginning.
2. The topography in Area 1 consists primarily of low to moderate slopes, with 98% of the area containing slopes of 15% or less. Generally, slopes under 15% can support relatively intense levels of development.
3. There are three distinct Value 2 wetlands in Area 1. The wetland areas total approximately 6.0 acres in size and are associated with the Schroon River and an unnamed stream.
4. The major hydrological feature in Area 1 is the Schroon River, which forms the northern boundary of this area. The Schroon River is classified as a Recreational River pursuant to the Wild, Scenic and Recreational River Systems Act (WSSRS Act) and as a C(t) waterbody by the Department of Environmental Conservation which indicates that its best use is for fishing and that it may

support a trout population. There appears to be no significant flood hazard in Area 1, with no significant areas within the 100-year flood zone.

5. Area 1 is located along the north of NYS Route 418. Existing development along this portion of Rt 418 resembles the development typically found in Moderate Intensity Land Use Areas.
6. There are no known instances of rare threatened or endangered species in Area 1.
7. The wetlands in Area 1 are statutory Critical Environmental Areas (CEAs) pursuant to the APA Agency Act. These are not Critical Environmental Areas pursuant to 6 NYCRR 617.14(g), which is a separate designation from CEAs under the APA Act, Executive Law § 810. Wetlands are a CEA in all land use area classifications.
8. The Hamlet land use area of Warrensburg lies immediately east of, south of, and adjacent to Area 1.
9. Public sewer and water services are available to Area 1.
10. According to data obtained from Warren County as well as the New York State Office of Real Property Services (ORPS), Area 1 consists of all or a portion of eleven residential parcels, two commercial parcels (an apartment and a bar), one community service parcel (a church), and three vacant parcels. Two of the three vacant parcels are owned by a utility company and contain an electric substation, transmission lines, and a sewer pump station.

## **AREA 2**

1. Area 2 is approximately 65.9 acres and is described as follows:  
Beginning at a point at the intersection of the centerline of NYS Rt 9 and the boundary between Lots 42 and 49 of Hyde Township; thence in a northwesterly direction along the line between Lots 42 and 49 to a point that is one-quarter mile from the centerline of NYS Rt 9; thence in a southeasterly direction along a one-quarter mile setback from the centerline of NYS Rt 9 to a point on the existing Hamlet boundary; thence in due east direction along the existing Hamlet boundary to a point on the centerline of NYS Rt 9; thence in a northeasterly direction along the centerline of NYS Rt 9 to the point of beginning.
2. The United States Department of Agriculture, Natural Resource Conservation Service (NRCS), in its Soils Survey for Warren County, has identified six soil map units within Area 2. These soil map units are predominately comprised of Bice and Woodstock-Rock Outcrop, which together make up 97% of the area.

3. The topography of Area 2 varies from low and moderate slopes to areas with severe slopes. Approximately 54% of the area contains slopes of 15% or less, which can generally support relatively intense level of development. Approximately 34% of the area contains slopes of 15-25%, which present environmental hazards relating to erosion, sewage disposal, siltation, and construction problems. Approximately 12% of the area contains slopes greater than 25%, which present serious environmental hazards relating to erosion and sewage disposal and should not be developed.
4. There are no wetlands or major hydrological features in Area 2.
5. Area 2 is located along the east side of NYS Route 9. This portion of Route 9 is primarily undeveloped with some rural development mixed in. This portion of Route 9 includes forested areas and rock outcroppings.
6. The New York Natural Heritage Program mapped a large area on the north and east sides of the Hamlet of Warrensburg where Purple Rock-cress (*Boechera grahamii*) has historically been observed. This mapped area covers the majority of Area 2. In New York, Purple Rock-cress has been found primarily in open areas of calcareous rock, rocky slopes and outcrops, sandy soil in clearings, and open forests. The State conservation status rank for this species is S2S3, meaning it is considered very vulnerable, or vulnerable, to disappearing from New York, due to rarity or other factors. Purple Rock-cress is not protected at the Federal level and has a global conservation status rank on G5, meaning it is globally secure and common in the world. Increased development in Area 2 could adversely impact this rare species.
7. Land classified as Rural Use within 150 feet of a State or Federal Highway is a statutory Critical Environmental Area (CEA) pursuant to the APA Agency Act. This is not a Critical Environmental Area pursuant to 6 NYCRR 617.14(g), which is a separate designation from CEAs under APA Act § 810. There are no highway CEAs for areas classified as Hamlet, the proposed classification. The “No Action” alternative for Area 2 will retain the highway CEA on the east side of Route 9. The Hamlet land use area of Warrensburg lies immediately south of, west of, and adjacent to Area 2.
8. Portions of Area 2 are served by public water and sewer or are readily accessible to the existing mains, but some portions of Area 2 are distant from existing mains and new development may rely on on-site water and wastewater treatment systems.
9. Area 2 consists of all or a portion of two commercial parcels, both motels, two residential parcels, two vacant parcels, and one private forest land parcel. Approximately 50 acres of the 65.9-acre area is vacant land.

## **DISCUSSION**

### **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).

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 .

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.

The APA Act describes the purposes, policies, and objectives of Hamlet land use areas as: "the service and growth centers in the park ... intended to accommodate a large portion of the necessary and natural expansion of the park's housing, commercial and industrial activities." The Act contemplates Hamlet land use areas in the center of communities: "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." APA Act §805(3)(c)(2).

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).

In considering map amendment requests, the Agency refers to the land use area classification determinants set out as Appendix Q-8 of Agency regulations and augmented by field inspection. 9 NYCRR 583.2(a).

### **Reclassification of Area 1**

Area 1 has moderate slopes, existing development typical of Moderate Intensity Use lands, and existing sewer and water. Although there are lands classified as Hamlet to east and south of Area 1, the proximity to the Schroon River and the wetlands on the site are factors weighing against reclassification to Hamlet, the least restrictive land use classification. Extension of the Hamlet classification to Area 1 would defeat the Act's purpose of "discourage[ing] the haphazard location and dispersion of intense building development."

The presence of municipal sewer and water and the moderate slopes support a reclassification to an intermediate classification of Moderate Use, which would allow for development consistent with the existing development in Area 1. Even this intermediate classification could result indirectly in environmental impacts.

### **POTENTIAL ENVIRONMENTAL IMPACTS OF RECLASSIFICATION**

Impacts may result from increases in the allowable density of development in Area 1. Those impacts 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 are summarized below.

1. Developed Area Storm Water Runoff: Development at intensities permitted by Moderate Intensity could increase runoff and associated non-point source pollution of wetlands and nearby surface waters. Such problems arise when precipitation runoff drains from the land into surface waters and wetlands. Storm water runoff may introduce substances into waters resulting in increased nutrient levels and contamination of these waters. Excessive nutrients cause physical and biological change in waters which affect aquatic life.

The volume of runoff from an area is determined by the amount of precipitation, the filtration characteristics related to soil type, vegetative cover, surface retention and impervious surfaces. An increase in development of the area could lead to an increase in surface runoff to the landscape and nearby wetlands.

2. Erosion and Sedimentation: Nearby surface waters and wetlands could be impacted by activities which tend to disturb and remove stabilizing vegetation and result in increased soil erosion and sedimentation. Erosion and sedimentation have the potential to impact aquatic life and spawning areas and increase flooding potential. Sedimentation can impact wetlands by reducing productivity, altering wetland habitat and eventually leading to the loss of wetlands by infilling.
3. Adverse Impacts to Flora and Fauna: The proposed 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 an increase in ecosystem fragmentation, degradation of habitat, and disruption of wildlife movement patterns. The pollution of surface waters, as discussed above, can also degrade wildlife habitat.

Although there are potential environmental impacts from the reclassification, the Agency has found that the reclassification of Area 1 to from Low Intensity Use to Moderate Intensity Use avoids or minimizes adverse environmental impacts to the maximum extent practicable. Reclassification of Area 1 from Low Intensity Use to Moderate Intensity Use accurately reflects the legislative findings and purposes of Section 801 of the Adirondack Park Agency Act and would be consistent with the Adirondack Park Land Use and Development Plan, including the character description and purposes, policies, and objectives of Moderate Intensity Use areas set forth in Section 805(3)(c) of the Adirondack Park Agency Act.

## **Reclassification of Area 2**

Area 2 is currently classified as Rural Use. “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.” APA Act §805(3)(f)(2). This legislative concern is reflected in the regulatory classification determinant regarding travel corridors. Appendix Q-8 to the Agency regulations state:

Travel corridors play an important role in establishing the park image to the majority of park users. Unscreened development within these areas would be detrimental to the open-space character of the park. The allowable intensity of development should not be allowed to substantially alter the present character of these travel corridors.

9 NYCRR App. Q-8.

Reclassification of Area 2 from Rural Use to Hamlet or any less restrictive classification would defeat the purpose of the Rural Use classification along the State highway leading into Warrensburg from the North, allowing strip development along the travel corridor.

Moreover, a third of the area contains slopes of 15-25% and approximately 12% of the area contains slopes greater than 25%. The classification determinants state that severe slopes, described as slopes over 25% should not be developed and that steep slopes, defined as slopes of 16% to 25% “present substantially the same environmental hazards relating to erosion, sewage disposal, siltation and construction problems as are found on severe slopes. However, if rigid standards are followed, some low intensity development can take place.” 9 NYCRR App. Q-8.

Although the lands south and west of Area 2 are classified as Hamlet, those areas are served by public sewer and water systems. Portions of Area 2 do not currently have access to municipal sewer or water mains. The classification determinants set out the land use implications for areas served by a public sewer system: “Development may occur in these areas in spite of certain resource limitations that have been overcome by public sewer systems. Consequently, these areas can often be used for highly intensive development.” 9 NYCRR App. Q-8. That is not the case for most of Area 2; the highly intensive development allowed in an area classified as Hamlet would not be appropriate without a public sewer system.

Most of Area 2 is undeveloped and contains forested lands and rock outcroppings. Purple Rock cress, a plant species considered vulnerable by the New York Natural Heritage Program, has been observed in this area. Reclassification would impact the open space character of the area and could threaten this vulnerable species.

For the foregoing reasons, reclassification of Area 2 from Rural Use to a less restrictive land use classification would not be consistent with the purposes of APA Act §801, the Adirondack Park Land Use and Development Plan, or the classification determinants found in Appendix Q-8 of the Agency regulations. There are no anticipated environmental impacts from the denial of the map amendment request for Area 2. The Rural Use land use area classification will be retained.

## **CONCLUSIONS OF LAW**

HAVING DULY CONSIDERED the above Findings of Fact, Environmental Impacts, the FSEIS, 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, the Draft and Final Supplemental Environmental Impact Statements, public comments, and the Findings Statement. All requirements of ECL 8-0101, 6 NYCRR Part 617 and 9 NYCRR Part 586 implementing Article 8 of the ECL (SEQR) have been met.

2. Reclassification of Area 1 from Low Intensity Use to Moderate Intensity Use accurately reflects the legislative findings and purposes of Section 801 of the Adirondack Park Agency Act, and would be consistent with the Adirondack Park Land Use and Development Plan, including the character description and purposes, policies, and objectives of Moderate Intensity Use areas set forth in Section 805(3)(c) of the Adirondack Park Agency Act, taking into account such existing natural resource, open space, public, economic, and other land use factors.
3. This reclassification 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 approve the request.

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 MA2021-01, in the Town of Warrensburg, Warren County, be approved for Area 1 in the following manner:

MA 2021-01: Low Intensity Use to Moderate Intensity Use; 21.9 ± acres

ADDITIONALLY ORDERED that the above-described request for an amendment to the Official Adirondack Park Land Use and Development Plan Map for MA2021-01, in the Town of Warrensburg, Warren County, be denied for Area 2 (Rural Use 65.9 ± acres) without prejudice to the applicant to file an application in the future for reclassification of these lands with new or additional information.

ADIRONDACK PARK AGENCY

By \_\_\_\_\_  
Megan Phillips, Deputy Director, Planning

ORDER issued this \_\_\_\_\_  
Day of \_\_\_\_\_ 2022

at Ray Brook, NY