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June 17, 2024

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NYS APA
Deputy Director for Planning
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Re: Draft Cranberry Lake Campground and Day-Use Area Unit Management Plan Amendment

Dear Mr. Miller and Ms. Phillips:

Protect the Adirondacks has reviewed the draft Cranberry Lake Campground and Day-Use Area Unit Management Plan (UMP) amendment, which was noticed in the ENB on May 15, 2024. This amendment, if approved, would authorize DEC to construct a new manmade playground on the Forest Preserve. We appreciate the opportunity to review and comment on this draft UMP amendment.

Protect the Adirondacks strongly supports exposing children to the natural wonders of the Forest Preserve. Indeed, some of the first wilderness experiences of many of our members, and their children, occurred there. However, a manmade playground is not necessary for children to enjoy the Forest Preserve. There are plenty of other things for them to do there, which are consistent with the purposes of the Forest Preserve, such as go for nature walks, fish, swim, canoe, and run around in the woods with their parents. For families that may wish to camp where there are more manmade facilities, there are many privately owned campgrounds in the Adirondacks that are outside of the Forest Preserve.

We question both the constitutionality and the State Land Master Plan (SLMP) compliance of this proposed addition to the UMP. As discussed in detail below, the Constitution and the SLMP impose strict standards for the Forest Preserve. DEC is pressing, and likely crossing, the boundaries of legality with this proposal.

Consequently, we urge DEC and APA to reject the proposed UMP amendment to add this manmade amenity to the Forest Preserve. Cranberry Lake Campground and Day-Use Area,

unlike the Town and County-owned Frontier Town Campground, is located in the Forest Preserve on lands classified as Intensive Use. Accordingly, any comparison to the playground or other amenities at Frontier Town Campground, which is not protected by the Constitution or the SLMP, is legally inapplicable and inappropriate.¹

The Forest Preserve Campgrounds are of Questionable Constitutionality

The constitutionality of campgrounds with respect to Article 14 of the Constitution, the Forever Wild clause, has been a matter of historic controversy. During the 1967 Constitutional Convention, one delegate, Judge Charles Froessel, a retired Court of Appeals judge, argued that campgrounds were unconstitutional and that Article 14 needed to be amended to legitimize their existence. He argued for Article 14 to be amended to explicitly permit: “the construction, maintenance and operation of recreational campsites [Campgrounds] bordering on or in the vicinity of state or county highways with necessary access, water supply and sanitation facilities, all of which shall be in keeping with the surrounding areas.”²

Delegate Froessel stated that the Conservation Department (DEC’s predecessor agency), had “stretched the constitution and they have erected not only within the Adirondack Park system, but within the blue line, at least 40 campsites during the last three or four decades. There is no basis in law for their having done that. . . . Now, I am not criticizing the commissioners in the past for doing this But at least there should be a legal foundation for it.”³ He also noted that the editor of the Conservation Department’s *Conservationist* magazine admitted that concentrated campsites (now campgrounds) “are certainly of doubtful constitutionality”.⁴

Several arguments were made in opposition to the proposed constitutional amendment, including that the “forest preserve does not and is not intended to supply every recreational need. The ball fields, the bowling alleys and the developed facilities are elsewhere”.⁵ The proposed amendment was not approved by the delegates. As a result, the campgrounds and “developed facilities” that DEC continues to construct and manage have not been authorized in the Constitution.

¹ The comparison to the Lincoln Pond Campground is also inappropriate since it does not appear that there is an approved UMP authorizing the campground or the playground at that location. It is also unclear if the Meacham Lake Campground’s playground is approved in the UMP for that campground. DEC’s presentation to APA on May 16, 2024 noted that the proposal is similar to a playground at the Limekiln Lake Campground, but the UMP for that unit, in responses to public comments (Exhibit #13), specifically rejected the idea of constructing a playground there because “[r]egulations regarding playground design, maintenance and safety requirements are quite rigorous and discourage the construction of small playgrounds in campgrounds”.

² Proceedings of the Constitutional Convention of the State of New York, April fourth to September twenty-sixth, 1967. 12 vols, consecutively paginated. Available online at the New York State Library: <https://nysl.ptfs.com/#!/s?a=b> (go to Government Collections, New York State Constitutional Conventions, 1967, Proceedings, Volume 2, page 542).

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 543; see also *Association for the Protection of the Adirondacks v. MacDonald*, 253 N.Y. 234, 242 (1930) (manmade sporting facilities not permitted on the Forest Preserve).

To Avoid Violating Article 14, The Playground Should Not Be Approved

Simply put, a playground is not necessary for the public to enjoy the wild nature of the Forest Preserve.⁶ “Improving recreation and the use and enjoyment of the preserve are laudable aims, but they were insufficient in [*Association for the Protection of the Adirondacks v.*] *MacDonald* to obviate the need for a constitutional amendment.”⁷

Accordingly, DEC is crossing a legal boundary by constructing more manmade amenities and facilities within State-owned campgrounds, which themselves are of questionable Constitutionality. Therefore, the proposed UMP amendment to install a new playground at the Cranberry Lake Campground should not be approved.

The Amendment Fails to Comply with the State Land Master Plan

The SLMP directs that “[t]he primary management guideline for intensive use areas will be to provide the public opportunities for family group camping, developed swimming and boating, downhill skiing, cross country skiing . . . visitor information and similar outdoor recreational pursuits in a setting and on a scale that are in harmony with the relatively wild and undeveloped character of the Adirondack Park.” SLMP at 41.

Significantly, there is no mention in the SLMP of playgrounds being an allowed facility within Intensive Use Areas. In fact, the SLMP states that the “more intensive recreational and service facilities” are located on private lands, which allows “a broader spectrum of recreational opportunities”. SLMP at 3. The SLMP also specifically states that the “economic viability of these private facilities should be a major concern in the development of pricing and operating policies for state intensive use areas”. *Id.* Based on this major policy concern for not competing with private campgrounds, and the fact that playgrounds are not authorized in the SLMP, DEC should not construct a playground in a campground on the Forest Preserve.

We also note that many, and perhaps most, of the existing campgrounds on the Forest Preserve do not have developed playgrounds such as the one proposed for the Cranberry Lake Campground. Playgrounds have little, if any, relationship to “opportunities for family group camping, developed swimming and boating . . . and similar outdoor recreational pursuits in a setting and on a scale that are in harmony with the relatively wild and undeveloped character of the Adirondack Park.” *Id.*

The SLMP’s Guidelines for Management and Use of Intensive Use Areas include:

1. Providing opportunities for camping “in a setting and on a scale that are in harmony with the **relatively wild and undeveloped character** of the Adirondack Park”.

⁶ *Association for the Protection of the Adirondacks v. MacDonald*, at 241.

⁷ *Protect the Adirondacks! Inc. v. New York State Dep’t of Env’t Conservation*, 37 N.Y.3d 73, 84 (2021).

2. “All intensive use facilities should be located, designed and managed so as to **blend with the Adirondack environment** and to have the minimum adverse impact possible on surrounding state lands and nearby private holdings”.
3. “Construction and development activities . . . will . . . preserve the scenic, natural and open space resources of the intensive use area”.
4. “All campgrounds will be of a **rustic nature without . . . elaborate facilities . . .** All facilities and appurtenances are to be **constructed of natural materials** to the fullest extent possible so as to blend with the natural environment”.
5. “The maximum size of future campgrounds in the Park will be in the range of **75 to 150** individual camping sites”.
6. “The **older, existing campgrounds will** be rehabilitated and reconstructed . . . to reflect modern site planning principles that will better blend the facilities with the environment and **comply with the provisions of [the SLMP]**”.

SLMP at 42-43 (emphasis added). The draft UMP amendment does not comply with these key provisions of the SLMP.

The campground was originally opened with 15 camping sites in 1935, prior to the enactment of the SLMP, so it was not planned in accordance with the SLMP, which was adopted in 1972. It was significantly expanded in the 1960s. The campground now has over 150 sites, for a total of 171 campsites, in violation of the SLMP. The campground must be “rehabilitated and reconstructed” to ensure that it and all of its facilities “have the minimum adverse impact possible on surrounding state lands”. The campground should not be further expanded and intensified with a playground because it will violate the provisions of the SLMP and further exacerbate existing SLMP violations.

The proposal to construct a manmade playground, however well-intentioned, violates the SLMP’s Guidelines for Management and Use of Intensive Use Areas because it is not consistent with the “relatively wild and undeveloped character” of the Forest Preserve, it does not “blend with the Adirondack environment”, it is not “of a rustic nature” and is more “elaborate” of a facility than is authorized by the SLMP. Moreover, the proposal to surface the playground with any kind of rubber or artificial grass is certainly not construction with “natural materials”, nor are plastic slides and metal parts of swings and playground equipment.⁸

On behalf of the Board of Directors of Protect the Adirondacks, please accept our gratitude for the opportunity to share our comments on this draft UMP amendment.

⁸ Because there is no apparent need for the existing pavement where the playground is proposed to be located, then that pavement should not be “repaved” (as stated by in UMP amendment). Instead, it should be removed from the Forest Preserve and the area restored to a natural open space.

Sincerely,

Claudia K. Braymer

Claudia K. Braymer
Deputy Director

cc: Sean Mahar, DEC Interim Commissioner
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