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Introduced by M. of A. ENGLEBRIGHT, L. ROSENTHAL, THIELE, REYES, GOTTFRIED, GRIFFIN, OTIS, STECK, EPSTEIN, JACOBSON, CARROLL, SEAWRIGHT, COLTON, GLICK, WILLIAMS, NIOU, HUNTER, FAHY, SIMON, FALL, PAULIN, DINOWITZ, BRONSON, GUNTHER, ABINANTI, LAVINE, STIRPE, FERNANDEZ -- Multi-Sponsored by -- M. of A. GALEF, LUPARDO, RAMOS, TAYLOR -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the executive law, in relation to preserving ecological integrity, wildlife and open space in the Adirondack park

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and statement of purpose. When enacted
2 in nineteen hundred seventy-three, the Adirondack park land use and
3 development plan represented an historic application of natural
4 resource-based land use control and economic opportunity for the park's
5 residents and communities. For over forty years, the plan has sought to
6 insure optimum overall conservation, protection, preservation, develop-
7 ment and use of the unique scenic, aesthetic, wildlife, recreational,
8 open space, historic, ecological and natural resources of this cherished
9 area and the essential interdependence of economic and community needs
10 through balanced apportionment of land use within the park.
11 Conservation science and land use planning techniques have advanced
12 since the enactment of the plan. It is now recognized that the spatial
13 pattern of development is fully, if not more, as ecologically important
14 as its overall density.
15 Subdivision of land into large residential lots, or rural sprawl,
16 impairs ecosystem function, decreases biotic integrity, alters species
17 behavior and composition, increases human-wildlife conflicts, fragments
18 ownership, impairs cohesive land management, undermines the open space
19 character of the park, and threatens its agricultural and forestry work-
20 ing landscapes.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 Conservation development is an approach to the design, construction
2 and stewardship of development that achieves functional protection of
3 natural resources, while providing social and economic benefits to human
4 communities. It requires a process that ensures thorough analysis of
5 ecological systems and environmental conditions before the developer
6 actually designs the project. This saves the preparation of detailed
7 subdivision plans, the most expensive part of design, to the end of the
8 planning process. The process provides for smaller initial costs and
9 allows for agency and public input before design funds are exhausted and
10 ensures that the developer is not committed to a design that is not
11 supported by ecological and environmental conditions.

12 The purpose of this act is to strengthen the land use and development
13 plan and its administration by incorporating modern conservation design
14 principles therein and to curtail rural sprawl. It is acknowledged that
15 each property is unique and that subdivision should be pursued in
16 accordance with ecologically-sound principles including appropriate
17 dedication and preservation of substantial open space areas in further-
18 ance of environmental protection goals and working landscapes.

19 § 2. Section 802 of the executive law is amended by adding six new
20 subdivisions 17-b, 18-a, 18-b, 18-c, 43-a and 52-a to read as follows:

21 17-b. "Conservation subdivision" means the division of any tract of
22 land into a residential subdivision of twenty-five or more lots, parcels
23 or sites in low intensity use areas, ten or more lots, parcels or sites
24 in rural use areas, and five or more lots, parcels or sites in resource
25 management areas. A subdivision involving solely lawfully existing prin-
26 icipal buildings and associated infrastructure shall not be deemed a
27 conservation subdivision. A subdivision created pursuant to paragraph c
28 of subdivision one of section eight hundred eleven of this article is
29 not a conservation subdivision.

30 18-a. "Development envelope" means the area of land within a residen-
31 tial lot, parcel or site within which all principal buildings, guest
32 cottages, roads, driveways, and other structures and infrastructure must
33 be located. Roads and trails associated with forestry, agriculture and
34 open space recreation are allowed outside of the development envelope
35 pursuant to the open space management and stewardship plan.

36 18-b. "Ecological impact zone" means that area of a project site
37 extending six hundred sixty feet beyond the development envelope for
38 each development site and any contiguous developed sites.

39 18-c. "Ecological site analysis" means an analysis of a project site
40 that identifies important ecological systems, natural resources and
41 habitat on and adjacent to the project site and identifies areas deserv-
42 ing protection and potential development areas for house lots, roads and
43 associated infrastructure.

44 43-a. "Open space management and stewardship plan" means a plan for
45 the ownership, configuration, permanent legal protection, forestry,
46 agriculture and recreational open space uses, and management of desig-
47 nated open spaces. Open space management and stewardship plan also
48 means a plan for the ownership, configuration and management of open
49 spaces providing permanent legal protection of open spaces while allow-
50 ing for forestry, agriculture and recreation open spaces.

51 52-a. "Project site" means the land included in a project upon which
52 the applicable overall intensity guideline is calculated pursuant to
53 paragraph c of subdivision ten of section eight hundred nine of this
54 article.

§ 3. Subparagraph 2 of paragraph f of subdivision 3 of section 805 of the executive law, as amended by chapter 348 of the laws of 1973, is amended to read as follows:

(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.

§ 4. Subparagraph 2 of paragraph g of subdivision 3 of section 805 of the executive law, as amended by chapter 348 of the laws of 1973, is amended to read as follows:

(2) Purposes, policies and objectives. The basic purposes and objectives of resource management areas are to protect the delicate physical and biological resources, encourage proper and economic management of forest, agricultural and recreational resources and preserve the open spaces that are essential and basic to the unique character of the park. Another objective of these areas is to prevent strip development along major travel corridors in order to enhance the aesthetic and economic benefits derived from a park atmosphere along these corridors.

~~[Finally, resource management areas will allow for residential]~~ Residential development ~~[on substantial acreages or]~~ and related development and uses should occur in relatively small clusters on carefully selected and well designed sites.

§ 5. Section 809 of the executive law is amended by adding a new subdivision 11-a to read as follows:

11-a. All conservation subdivisions shall be reviewed pursuant to this subdivision. a. (1) The applicant shall submit to the agency:

(i) an initial ecological site analysis reviewing the natural resources of the project site and adjacent lands, utilizing current local and regional data and research conclusions, including identification and mapping of important ecological areas;

(ii) preliminary on-site analysis to identify important ecological areas and other site features relevant to the development considerations; and

(iii) a concept plan for the project, based on the data specified in clauses (i) and (ii) of this subparagraph that minimizes the area of the project subject to ecological disturbance, protects important ecological areas, promotes clustering such that ecological impact zones are overlapped as much as possible, takes into account existing open space and ecological impact zones on adjacent properties and identifies areas for development that have appropriate soils and slopes.

(2) The agency shall undertake an initial site visit to access natural resources and site features.

(3) The agency shall provide for a public comment period and hold a public meeting on public notice, regarding the initial data and concept plan.

(4) The agency shall specify to the applicant any additional study of the project site necessary to complete a final ecological site analysis and specify any other information requirements relevant to the develop-

1 ment considerations. The ecological site analysis, as detailed in para-
2 graph b of this subdivision, shall be submitted to the agency for
3 approval.

4 (5) The applicant shall thereafter prepare the subdivision plan, which
5 shall include parcel boundaries and development envelopes, location of
6 open space and the draft open space management and stewardship plan. All
7 plans shall be based upon the approved ecological site analysis and
8 other site resources relevant to the development considerations. Upon
9 submission of these plans, as accepted by the agency, the application
10 review process governed by subdivisions two, three, four, five and six
11 of this section shall commence. The agency may request additional infor-
12 mation regarding the proposed subdivision plan and the open space
13 management and stewardship plan and may require revisions to the plans
14 before deeming the application complete.

15 (6) No conservation subdivision shall be approved unless (i) the find-
16 ings required by subdivision ten of this section are made, and (ii)
17 ownership, configuration, protection, compatible uses and management of
18 the designated open space is based on the ecological site analysis, and
19 is included in the open space management and stewardship plan and incor-
20 porated in permit conditions.

21 (7) The agency may provide by regulation for a variance from specific
22 conservation development requirements if it determines that such
23 requirements would cause an undue economic hardship and are not required
24 to protect the ecological resources of the project site.

25 (8) The agency shall have a standing to enforce by appropriate civil
26 action any permit condition, deed restriction, covenant, easement or
27 other permanent means of protecting open space.

28 b. The ecological site analysis shall address the following consider-
29 ations:

30 (1) identification of important ecological and sensitive areas of the
31 project site including, but not limited to, habitat, wetlands, flood-
32 plains, natural drainage ways and steep slope areas;

33 (2) the terrestrial and aquatic wildlife inhabiting, breeding on,
34 migrating across, traversing or otherwise using the project site;

35 (3) corridors, including ridgelines and riparian zones, providing
36 means by which wildlife may travel to adjacent or contiguous areas
37 providing habitat, breeding or spawning areas or meeting other needs;

38 (4) vegetative buffers on the shorelines of lakes, ponds, rivers and
39 streams and protection and preservation of vernal pools and riparian
40 areas;

41 (5) large intact forest tracts for protection of wildlife habitat and
42 biodiversity, especially for protection of species native to or other-
43 wise requiring such tracts; for watershed preservation and for miti-
44 gation of climate change, while allowing forestry, agriculture and
45 recreation uses;

46 (6) minimizing the creation of man-made and hardened edges between
47 forested tracts, roads and other open areas and the length of roads and
48 driveways;

49 (7) the size, configuration and proposed uses of the project site to
50 be preserved by permanent legal means, while allowing for recreation,
51 forestry and agriculture uses on dedicated open spaces.

52 c. Designated open space shall be, to the greatest extent possible:

53 (1) located outside the boundaries of all lots, parcels or sites for
54 the development and designed to protect the ecology and open space of
55 the park; and

56 (2) configured applying these design factors:

1 (i) include the important ecological areas of the property, based on
2 the approved ecological site analysis;

3 (ii) provide connectivity to any neighboring areas of open space,
4 other protected areas, working forests and agriculture;

5 (iii) not be divided by subdivision roads, driveways or other perma-
6 nent man-made fragmenting features;

7 (iv) create one large, contiguous area rather than many small areas.
8 If large areas are not feasible, than a few smaller, important ecologi-
9 cal areas of the site may be protected if connected by corridors
10 comprised of natural landcover with widths of no less than three hundred
11 thirty feet; and

12 (v) minimize edge-to-area ratio of the open space and make it as
13 uniform as possible.

14 d. (1) The minimum open space required in a conservation subdivision
15 is:

16 (i) in low intensity use areas, forty percent of the project site. If
17 the open space design reaches sixty percent, there may be allowed a ten
18 percent density bonus. If it reaches seventy percent, there may be
19 allowed a twenty percent density bonus.

20 (ii) in rural use areas, fifty-five percent of the project site. If
21 the open space design reaches seventy percent, there may be allowed a
22 ten percent density bonus. If it reaches eighty percent, there may be
23 allowed a twenty percent density bonus.

24 (iii) in resource management areas, seventy-five percent of the
25 project site. If the open space design reaches eighty-five percent,
26 there may be allowed a ten percent density bonus. If it reaches ninety
27 percent, there may be allowed a twenty percent density bonus.

28 (2) Utilization of the calculated density bonus is not guaranteed and
29 is subject to agency review. The additional principal buildings may be
30 situated on the project site, or within the same directly contiguous
31 land use area, pursuant to paragraph c of subdivision ten of this
32 section. The additional principal buildings may be allowed for use in
33 the same, but non-contiguous land use area, if within the same town.
34 This density bonus cannot be utilized in any manner except by agency
35 permit and only if all the required findings of subdivision ten of this
36 section are made for the placement of the buildings and other infras-
37 tructure.

38 § 6. Section 809 of the executive law is amended by adding three new
39 subdivisions 16, 17 and 18 to read as follows:

40 16. Nothing in this section shall be deemed to prevent the agency from
41 requiring any jurisdictional project pursuant to section eight hundred
42 ten of this article to be designed in accordance with an ecological site
43 analysis and developed pursuant to an ecological preservation and
44 stewardship plan and to provide for the preservation of a portion of the
45 project site in open space by deed restriction, easement or other legal
46 means.

47 17. In determining whether a conservation subdivision permit is
48 required pursuant to this article, the agency shall not consider any
49 lots lawfully created prior to the effective date of this subdivision.
50 Nothing in this subdivision shall affect the ability of the agency, by
51 permit or by any extension thereof, to determine a period of time by
52 which a permitted subdivision shall be deemed "in existence" as defined
53 in subdivision twenty-five of section eight hundred two of this article.

54 18. Nothing in this section shall be construed to authorize the agency
55 to require that any interest in land comprising part of a conservation

1 subdivision be conveyed to a public body or any other legal entity,
2 unless the applicant so proposes and the other legal entity agrees.

3 § 7. Subparagraph 3 of paragraph d of subdivision 1 of section 810 of
4 the executive law, as added by chapter 348 of the laws of 1973, is
5 amended to read as follows:

6 (3) All land uses and development and all subdivisions of land involv-
7 ing [~~twenty~~] ten or more residential lots, parcels or sites or residen-
8 tial units, whether designed for permanent, seasonal or transient use.

9 § 8. Subparagraph 3 of paragraph c of subdivision 1 of section 810 of
10 the executive law, as added by chapter 348 of the laws of 1973, is
11 amended to read as follows:

12 (3) All land uses and development and all subdivisions of land involv-
13 ing [~~thirty-five~~] twenty-five or more residential lots, parcels or sites
14 or residential units, whether designed for permanent, seasonal or tran-
15 sient use.

16 § 9. Subparagraph 1 of paragraph b and subparagraph 1 of paragraph c
17 of subdivision 2 of section 810 of the executive law, as added by chap-
18 ter 348 of the laws of 1973, are amended to read as follows:

19 (1) Subdivisions of land (and all land uses and development related
20 thereto) involving [~~ten~~] five or more but less than [~~thirty-five~~] twen-
21 ty-five lots, parcels or sites, other than subdivisions of land involv-
22 ing mobile homes.

23 (1) Subdivisions of land (and all land uses and development related
24 thereto) involving five or more but less than [~~twenty~~] ten lots, parcels
25 or sites, other than subdivisions of land involving mobile homes.

26 § 10. Nothing in this act shall be construed to authorize the Adiron-
27 dack park agency to require that any interest in land comprising part of
28 a conservation subdivision be conveyed to a public body or any other
29 legal entity.

30 § 11. This act shall take effect on the one hundred eightieth day
31 after it shall have become a law.