Project Approval – Required Findings

- "The agency shall not approve any project … unless it first determines that such project meets the following criteria:"

  a) consistent with the land use and development plan

  b) compatible with the character description and purposes, policies and objectives of the land use area(s)

  c) consistent with the overall intensity guidelines

  d) comply with the shoreline restrictions

  e) no undue adverse impact

  - APA Act § 809(10)

Project Approval – Required Findings

a) The project must be consistent with the land use and development plan

- LUDP is defined in APA Act § 802(29) as including:
  - Map
  - "Provisions of the Plan as contained in § 805(3) and (4)"
    - § 805(3) – land use area character descriptions, purposes, policies, and objectives, OIGs, compatible use lists
    - § 805(4) – development considerations
  - Shoreline restrictions

Project Approval – Required Findings

b) The project must be compatible with the character description and the purposes, policies, and objectives of the land use area(s)

Project Approval – Required Findings

b) The project must be compatible with the character description … of the land use area(s) – **Moderate Intensity Use**:

"MIU 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.

These areas are primarily located near or adjacent to hamlets to provide for residential expansion. They are also located along highways or accessible shorelines where existing development has established the character of the area.

Those areas identified as MIU where relatively intense development does not already exist are generally characterized by deep soils on moderate slopes and are readily accessible to existing hamlets."

- APA Act § 805(3)(d)(1)

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Project Approval – Required Findings

b) The project must be compatible with the character description … of the land use area(s) – **Resource Management**:

"RM areas … are those lands where the need to protect, manage and enhance forest, agricultural, recreational and open space resources is of paramount importance because of overriding natural resource and public considerations. Open space uses, including forest management, agriculture and recreational activities, are found throughout these areas.

Many RM areas are characterized by substantial acreages of one or more of the following: shallow soils, severe slopes, elevation of over 2,500 feet, flood plains, proximity to designated or proposed wild or scenic rivers, wetlands, critical wildlife habitats or habitats of rare and endangered plant and animal species.

Other RM areas include extensive tracts under active forest management that are vital to the wood using industry and necessary to insure its raw material needs.

Important and viable agricultural areas are included in RM areas..."

- APA Act § 805(3)(g)(1)

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Project Approval – Required Findings

b) The project must be compatible with the … purposes, policies and objectives of the land use area(s) – **Moderate Intensity Use**:

"MIU areas will provide for development opportunities in areas where development will not significantly harm the relatively tolerant physical and biological resources. These areas are designed to provide for residential expansion and growth and to accommodate uses related to residential uses in the vicinity of hamlets where community services can most readily and economically be provided. Such growth and the services related to it will generally be at less intense levels than those in hamlet areas."

- APA Act § 805(3)(d)(2)

Project Approval – Required Findings

b) The project must be compatible with the … purposes, policies and objectives of the land use area(s) – **Resource Management**:

"The basic purposes and objectives of RM 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, RM areas will allow for residential development on substantial acreages or in small clusters on carefully selected and well designed sites."

- APA Act § 805(3)(g)(2)

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Project Approval – Required Findings

b) The project must be compatible with the character description and purposes, policies and objectives of the of the land use area(s)

"If the project is on the classification of compatible uses list for the land use area involved, there shall be a presumption of compatibility with the character description, purposes, policies and objectives of such land use area."

- APA Act § 809(10)(b)

Compatible Use lists

MIU - APA Act § 805(3)(d)(4)

RM - APA Act § 805(3)(g)(4)

Project Approval – Required Findings

c) The project must be consistent with the overall intensity guideline for the land use area(s) involved

Moderate Intensity Use:	500 principal buildings per square mile (1.3-acre average lot size)
Resource Management:	15 principal buildings per square mile (42.7-acre average lot size)

- APA Act § 805(3)

Project Approval – Required Findings

d) The project must comply with the shoreline restrictions found in APA Act § 806.

Project Approval – Required Findings

e) The project must not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational, or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational, or other benefits that might be derived from the project.

In making this determination as to the impact of the project upon such resources of the Park, the agency shall consider those factors contained in the development considerations of the plan which are pertinent to the project under review.

4. **Development Considerations.**

The following are those factors which relate to potential for adverse impact upon the park's natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources and which shall be considered, as provided in this article, before any significant new land use or development or subdivision of land is undertaken in the park. Any burden on the public in providing facilities and services made necessary by such land use and development or subdivision of land shall also be taken into account, as well as any commercial, industrial, residential, recreational or other benefits which might be derived therefrom:

a. **Natural resource considerations.**

(1) **Water**
- (a) Existing water quality.
- (b) Natural sedimentation or siltation.
- (c) Eutrophication.
- (d) Existing drainage and runoff patterns.
- (e) Existing flow characteristics.
- (f) Existing water table and rates of recharge.

(2) **Land**
- (a) Existing topography.
- (b) Erosion and slippage.
- (c) Floodplain and flood hazard.
- (d) Mineral resources
- (e) Viable agricultural soils.
- (f) Forest resources.
- (g) Open space resources.
- (h) Vegetative cover.
- (i) The quality and availability of lands for outdoor recreational purposes.

(3) **Air**
- (a) Air quality.

(4) **Noise**
- (a) Noise levels.

(5) **Critical resource areas**
- (a) Rivers and corridors of rivers designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law.
- (b) Rare plant communities.
- (c) Habitats of rare and endangered species and key wildlife habitats.
- (d) Alpine and sub-alpine life zones.
- (e) Wetlands
- (f) Elevations of twenty-five hundred feet or more.
- (g) Unique features, including gorges, waterfalls, and geologic formations.

(6) **Wildlife**
- (a) Fish and wildlife.

(7) **Aesthetics**
- (a) Scenic vistas.
- (d) Natural and man-made travel corridors.

b. **Historic site considerations.**

(1) **Historic factors**
- (a) Historic sites or structures

c. **Site development considerations.**

(1) **Natural site factors**
- (a) Geology.
- (c) Slopes.
- (c) Soil characteristics.
- (f) Depth to ground water and other hydrological factors.

(2) **Other site factors**
- (a) Adjoining and nearby land uses.
- (g) Adequacy of site facilities.

d. **Governmental considerations.**

(1) **Governmental service and finance factors**
- (a) Ability of government to provide facilities and services.
- (b) Municipal, school or special district taxes or special district user charges.

e. **Governmental review considerations**

(1) **Governmental control factors**
- (a) Conformance with other governmental controls.

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Project Approval – Required Findings

- "Unless the economic, social and other benefits to be derived from the activity proposed compel a departure from these guidelines, the agency shall not issue a permit for regulated activities in … wetlands unless the findings set forth below are made:"

  Class 2 - The proposed activity would result in minimal degradation or destruction of the wetland or its associated values and must be the only alternative that either reasonably accomplishes the applicant's objectives or that provides an essential public benefit.

  Class 3 - The proposed activity would result in the minimum possible degradation or destruction of any part of the wetland or its associated values; be the only alternative that can reasonably accomplish the applicant's objectives; and would, weighing the benefits of the activity against its cost and the wetland values lost, provide a net social and/or economic gain to the community.

9 NYCRR § 578.10 (wetlands)

Project Approval – Required Findings

- The agency shall not issue a permit for any rivers project unless it shall determine that:

  1) The project would be consistent with the purposes and policies of the Wild, Scenic, and Recreational Rivers System Act;
  2) The project would comply with the applicable restrictions and standards of 9 NYCRR § 577.6; and
  3) The project would not cause an undue adverse impact upon the natural, scenic, aesthetic, ecological, botanical, fish and wildlife, historic, cultural, archeological, scientific, recreational or open space resources of the river area, taking into account the commercial, industrial, residential, recreational, or other benefits that might be derived from the project. In making this determination, the agency shall consider those factors contained in the development considerations of the land use and development plan which are pertinent to the project.

9 NYCRR § 577.8(b) (rivers)