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Tuesday, November 16, 2021

## Formality Will Not Generate the Planning Needed in the Adirondacks

by [Guest Contributor](#)[15 Comments](#)**By Lee Nellis**

Thanks to Peter Bauer for once again providing us with useful facts and commentary in his [“Team Cuomo” editorial](#). I have no argument with what he says, so far as it goes, but fear that he creates the impression that the more frequent use of formal adjudicatory hearings will restore sound land-use planning to the Adirondacks.

It will not.

Adjudicatory hearings are the path that’s left when we cannot resolve issues in a creative and collaborative way early in the planning process. They are what happens when visionary planning and design are replaced by bureaucratic and legal necessity.

While each story has its twists, the narrative here is the same as everywhere that progressive land use planning has been tried. One sees it at a statewide scale in Oregon; in communities throughout the U.S. where progressive local officials have come and, inevitably, gone; and in Federal efforts to plan for the public lands. In almost every case, a powerful initial vision is replaced by a bureaucratic tangle.

Whether it happens before an administrative law judge or in court, formal adjudication is a sign of a failing process. It tells us that our vision, creativity, and collaborative skills have proven insufficient. It tells us that we must now fashion a compromise that is likely to frustrate everyone involved, but not likely to result in development that is worthy of the scenery, in development that is consistent with the long-term health of our landscape and communities.

The need for formal adjudication is not the first symptom of a failing planning process. We have seen the first symptom in recent development approvals by the Adirondack Park Agency. It is a belief that imposing enough conditions on an obviously unsustainable development concept is good planning. Writing conditions is necessary, but those conditions should flow from shared vision, not from the need to check off the boxes of mere compliance.

The best review of development proposals begins when a developer walks through an agency’s door and sits down to chat with planners and designers (the APA’s most significant early influence was a landscape architect) whose training, skills, and experience are focused specifically on the question of how land development affects landscapes and communities. These professionals are the front-line custodians of the community’s vision. A successful development review process continues when the public is invited into the conversation early, often, and with minimal formality to help clarify how the community’s vision applies in this case. Development review must end in a formal decision. You will know you have succeeded if that final proceeding is just plain boring.

This process has bumps. Once in a while, it doesn’t work and that’s what formal adjudication is for. But development review as I have described (and lived) it works well when it is guided by a strong, continually renewed vision of both a healthy landscape and what it means to live in community.

I want to pause here to reflect on the success of the Adirondack Park Agency. It is long past time for it to evolve, but setting all criticisms aside, if you want to understand the value of the APA, get on Google Earth and look at the landscape surrounding Great Smoky Mountains National Park. The people who remove mountaintops to mine coal will do the same to create subdivisions. What you see there, could have happened here.

The APA has played an irreplaceable part in protecting this region's landscape from abuse. But it cannot credibly or effectively continue in that role if it is perceived and operates as a rigid bureaucracy that has been captured by special interests (and note please that it doesn't matter which interests you think have too much influence).

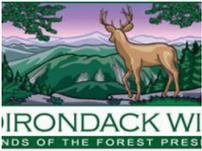
The current issues in these mountains go far beyond the potential for damaging land development that spurred creation of the APA in the early 1970s. The agency needs to be reimagined and then rebuilt to deal with both its original mission and with the challenges of climate change, tourism, housing, and creating a sustainable economy in a rural landscape. The interplay among the issues insists that we need a true regional planning agency.

There is not space here to talk about what a reborn APA might look like. But it would have to start, can only start, with a powerful and detailed vision for this landscape and its communities. Elements of that vision are evolving through many different initiatives, but can be brought together and made real only by a cadre of leaders, including, but extending well beyond, the employees of a revived APA, leaders who represent both residents and visitors, and who understand how to bring out the best in everyone involved in development review and other community-building processes.

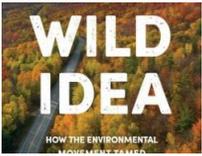
To conclude, I want to respectfully borrow from this region's original peoples and briefly say how thankful we ought to be to be having this discussion in this amazing landscape, to say how fortunate we are that there is still a difference to be made. I can't wait to hear what these thoughts evokes.

*Lee Nellis was elected a member of the College of Fellows of the American Institute of Certified Planners in 2010 in recognition of his innovative contributions to planning and community-based conservation in rural communities and landscapes throughout the US. He currently lectures on land use planning and related topics at Paul Smiths College and maintains a small consulting practice. He has worked with local, state, and federal planning and land management agencies, as well as in academia and with nonprofit conservation organizations. He is also an experienced guide and ranger.*

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## Guest Contributor

The *Adirondack Almanack* publishes occasional guest essays from Adirondack residents, visitors, and those with an interest in the Adirondack Park. Submissions should be directed to *Almanack* editor Melissa Hart at [editor@adirondackalmanack.com](mailto:editor@adirondackalmanack.com)

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## 15 Responses

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1.  *Joe Dash* says:  
[November 16, 2021 at 2:38 pm](#)

Thank you to the author and to the Adirondack Almanack for bringing attention to the extremely important issue of land use planning. The Almanack's previous article on STRs shows that important work must be done to address the land use controversies, new and old, in the Park. In addition, thanks to the author for noting the success of the APA and its role in protecting the Adirondacks.

2.  *Jack Carney* says:  
[November 16, 2021 at 3:09 pm](#)

Mr. Bauer was commenting on how nobody was minding the APA store for several years, freeing the former Governor to do essentially what he thought best with no scrutiny, no oversight, from the APA Board, the representatives of NY's and its people's wilderness. As per Bauer, in certain instances, particularly those involving substantial sums of money and consequential impact on the people's wilderness, formal reviews, with their attendant pomp, circumstance & media coverage are a must. I agree with Mr. Bauer who did not seem to me to suggesting substituting them for regular input from ordinary New Yorkers but as their complement and occasional capstone.

-  *Lee Nellis* says:  
[November 18, 2021 at 12:52 pm](#)

The more consequential the impacts will be, the more important the early stages of the process. Pomp and circumstance are a pretty sure sign that people are arguing from positions, not working together toward solutions. As for media coverage, the earlier the better. Then those covering the issue and their readers will develop some understanding instead of seeing only the dramatic.

3.  *Gary Hartwick* says:  
[November 16, 2021 at 9:37 pm](#)

I don't know about comparing the Adirondacks with the Smokies. The situations are very different, I think a formal comparison of the Adirondacks with Northern Vermont would be very worthwhile.

-  *JDash* says:  
[November 17, 2021 at 1:03 pm](#)

I have been to the Smokies and West Tennessee. Mr. Bauer is correct. This area have become an example of extremely poor land use planning. The boundary of the Park is a joke. All around the Smokies, especially on the TN side, there is rampant development of garish Coney-Island like amusement parks, vacation cottages and unsightly carnivalesque spook-house attractions. Then you enter the Smokies and suddenly there's wilderness. What a disaster! There's nothing to stop that type of development outside, or inside, the Adirondacks. Lake George Village is particularly unsightly. Old Forge is not far behind. As for the APA, one political tactic for neutralizing a regulatory agency is to cut off funding, reduce staff and to leave vacancies on the board. This is exactly what was done to the APA. The agency desperately needs more funding, staff and appointees so it can do its job. Thank you to Mr. Bauer for bringing attention to this issue

4.  *Todd Eastman* says:  
[November 17, 2021 at 9:07 am](#)

The large scale project applicants that have come into trouble with the APA seem to have not taken the time to work within the directives of the agency, apparently assuming wealth would grease the skids.

-  *Mike* says:  
[November 17, 2021 at 10:20 am](#)

Geed Todd, I can't imagine what large scale applicant you might be alluding to. But if I am thinking of the right one, it was only the alleged appearance of wealth that they were hoping would grease the skids.

5.  *Bob Meyer* says:  
[November 17, 2021 at 9:51 am](#)

I only want to say that I look forward to continuing comments on this issue that is so central to the future of the Adirondacks!

6.  *chris cohan* says:  
[November 17, 2021 at 12:07 pm](#)

I want to thank Lee for the thoughtful comments. This is a big issue that must be addressed. I believe having an actual APA Chair and a Governor who wants transparency in State government that projects will be once again be thoroughly reviewed before approval.

For instance, Lot 9, Deerwood on Upper Saranac Lake is now before Judge Meyers of the New York State Supreme Court, in Essex County due to over 100 homeowners on Upper Saranac Lake who have opposed this arbitrary and capricious decision to amend the original permit, as made by the APA. Article 78 Petition to request an annulment of this amendment because of an inadequate review process by the APA with a lack of any independent analysis or substantial evidentiary documentation to support their findings and decision.

Hopefully, Judge Meyers remands Lot 9 back to APA where a new chair insists it go through the Adjudicatory process ensuring a fair and transparent outcome—something all on Upper Saranac Lake would welcome. This would be invaluable to restoring APA credibility and commitment to the Park.

Further, “the APA’s most significant early influence was a landscape architect... These professionals are the front-line custodians of the community’s vision.” which was gratifying to read as a licensed landscape architect. I also hold a Masters in Planning.

I am confident that a better day is ahead for the APA and Adirondack Park under new leadership of Chairman Ernst. Here’s to doing the right thing!

7.  JDash says:  
[November 17, 2021 at 12:34 pm](#)

Dear Mr. Cohan, input from experts like you (landscape architect and land use expert) are exactly what is needed in the region. Thank you for your well written and extremely knowledgeable comment in this post. I hope we hear more from you.

8.  chris cohan says:  
[November 17, 2021 at 12:47 pm](#)

Dear JNash-  
Thank you for your kind words.

I have the good fortune, through my parents, to have been introduced to The Adirondacks as a child. Our families retain properties there to this day. I have donated my time, resources and professional services to projects in The Adirondacks- which I shall continue to do. I have tried to instill the same sense of public service to my adult children, too.

I am confident that the next generation will build on our successes and learn from our mistakes( many).

However, immediately, what is needed is renewed backbone in the APA. Send the message loud and clear, ‘There is a new sheriff in town.’

9.  David Gibson says:  
[November 17, 2021 at 1:10 pm](#)

Thanks Lee Nellis for your post. Pre-application meetings at the APA (and DEC regarding State Lands/Forest Preserve) are fundamental to arrive at better planning at micro and macro scales so that the ultimate project fits and meets environmental conditions. One problem is that pre-application meetings to guide a development before investing a lot of money, time, and emotion, are voluntary. The applicant must ask for it. For projects with large potential regional impacts, APA should be able to mandate a pre-application process that guides and eventually designs development to fit more harmoniously with existing and anticipated future environmental conditions. The success of APA’s large-scale subdivision application announced in 2018 hinged on this conceptual, pre application process. We were told that this process was mandatory for those few projects of a certain size and threshold. That turned out not to be the case. The process is voluntary, and therein lies its weakness. Legal amendments to the APA Act are needed to make it mandatory.

- o  Lee Nellis says:  
[November 18, 2021 at 1:02 pm](#)

Thanks David. Perhaps, I should add that pre-application proceedings (its not just about meetings) are not unusual. The first regulations I ever wrote (1975) featured a pre-app process. It wasn’t really cutting edge, even 40 years ago, but it was SOP by the ’90s. I checked just to see, and sure enough, there is pre-app review in the Harrietstown subdivision regulations. It is, as you say, fundamental.

10.  JDash says:  
[November 17, 2021 at 1:28 pm](#)

You’re welcome and “amen” to more backbone on the APA. I think you pin-pointed the problem we currently face: like you, my parents owned a country house in upstate NY (not the Adirondacks). All summer I swam, fished, drank sparkling spring water, played in the woods, explored and was a real kid. Later I became an avid backpacker and wilderness camper. None of my city peers were so lucky. Some ask ‘why would you want to do that?’ when I tell them I’m going camping in the Adirondacks. As “Last Child in the Wilderness” points out, city and suburban children suffer from “nature deficit disorder.” This is not new. As far back as the late Nineteenth Century George Washington Sears (better known as Nessmuk) was describing what happens when he brought city kids camping in the woods. It takes days for them to slow down, stop, and begin appreciating the outdoors. Today, that’s not only true for children but for grown-ups as well. We’ll never protect wilderness unless we win over more “nature lovers.” Tom Brown, Jr., the greatest outdoorsman, environmentalist and nature writer of all time, bar none, suggests bringing lots of amenities when introducing kids to camping. Then, gradually reducing the “equipment” and weaning them off “technology.” That sounds like a sound solution to me.

11.  Hp kern says:  
[November 17, 2021 at 2:13 pm](#)

I want applaud the comments from Chris Cohan and JDash. The APA badly needs strong leadership to instill credibility and trust from the Adirondack community in the integrity of the APA. I have great hope that our new Governor and APA Chair Ernst will bring a transparent and environmentally focused and fair APA.

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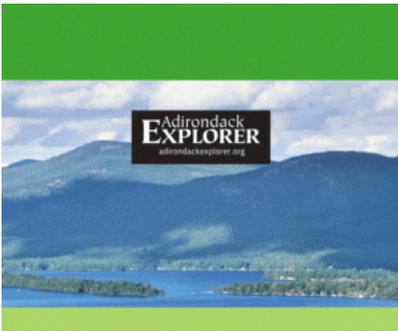
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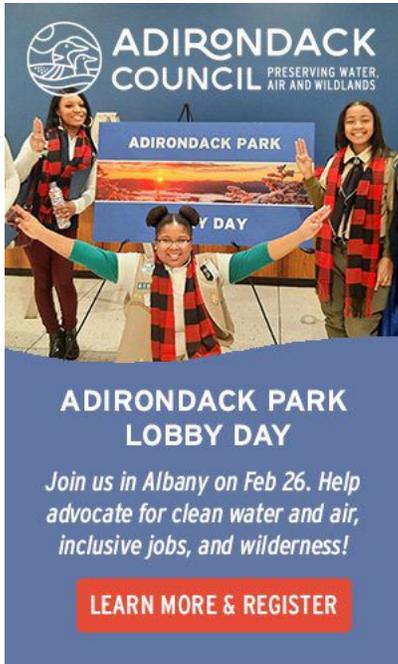
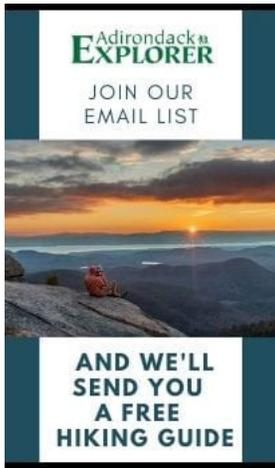
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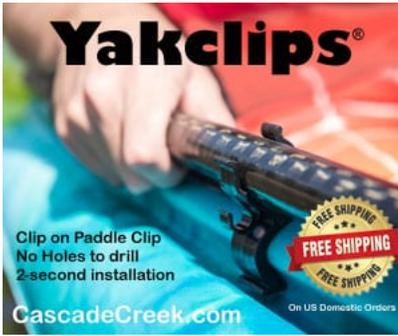
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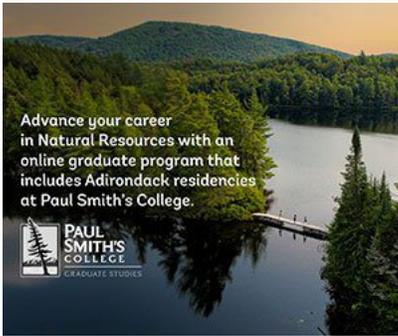


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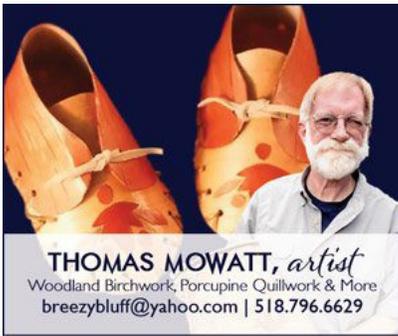
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