

At the Tipping Point

Private Land Use Planning in the Adirondacks

By ANN RUZOW HOLLAND

New York's Adirondack Park is internationally recognized for its biological diversity. Ecologists, residents of the Park, and others are concerned about rapid land use change occurring within the borders of the Park. Local land use planning decisions have important cumulative impacts on protected area land development at the local and regional scale, but the legal and political framework is flawed and misunderstood, contributing to compromised local planning capacity.

Comprehensive planning can be an effective tool to improve local capacity for land use decisions particularly in a challenging, regional-local, collaborative land management process. This paper addresses the relationship between citizens and their governments as they engage in science-based land use planning. It develops from a single case study, mixed methods, participatory action research project conducted by the author from 2009 through 2011.

Introduction

For the past fifty years, we Americans have been building a national landscape that is largely devoid of places worth caring about. If only there were some third choice available other than *bad growth* or *no growth* . . . that third choice is *good growth*. (Duany, et al., 2001, p. x)

In an effort to search for Duany's "third choice," land use planning activities are carried out. When confronted with permit applications for real estate development projects, citizen-planners face the realities of whether, and to what extent, they wish to see growth in their community. In this all-too-common scenario, piecemeal planning replaces comprehensive planning (New York State Legislative Commission on Rural Resources, 2008).

The circumstances under which state and local governments operate with respect to Adirondack-based local planning are not well understood or even recognized by citizens, politicians or

bureaucrats. The current land use planning policies employed by New York State can compromise local planning capacity and reinforce ambiguity of local governance. Adirondack communities (such as the author's case study community), have seen rapid growth, despite the existing control regime.

This paper describes the political and legal factors framing how local and state governments interact and why land use planning is problematic in the Adirondacks. Flaws in the Adirondack Park Agency Act and a misunderstanding of the Home and Dillon's Rules contribute to the failure of governments to embrace land use planning. Citizen participation, smart growth, and cumulative environmental impacts challenge the two-tiered approach of the *Adirondack Park Land Use and Development Plan*, which relies upon local governments to fully assume their planning responsibilities. Given sufficient time, attention and resources, local governments could engage in a more reflective and effective planning process.

The Adirondack Park Land Use and Development Plan: Elegant in Design, Compromised by Politics

The Adirondack landscape creates the backbone for the bioregion's distinctiveness and protection. Land and water environments provide important, ecologically rich habitats for diverse and thriving plant and animal communities. As part of the Northern Appalachian/

Acadian Eco-Region, the Adirondacks serve as a biological corridor and include several migratory flyways. Large mammals, such as the moose, are repopulating the Adirondacks after 100 years of absence (Trombulak, et al. 2008; Adirondack Council, 2007; Adirondack Park Agency, 2009). The Adirondack bioregion was recognized by nineteenth century New Yorkers for the economic value and importance of its water and timber resources (Graham, 1978; Porter, et al., 2009). In 1885, the New York State Legislature created the Adirondack Forest Preserve to protect those resources. While the 1885 statute did not prohibit logging, New York's Constitutional changes made in subsequent years prohibited logging in the Forest Preserve (Terrie, 2012). For 125 years, the bold initiative of Article XIV has been, "one of the strongest protections of land in the world," and has preserved core Adirondack ecosystems owned by the State of New York (Erickson, 2009, p. 194).

The Adirondack region's unusual combination of settlements, private lands and public wilderness was seen as an "historical document and a 'sanctuary of dreams,'" a landscape of significant value to the world and worth preserving (Terrie, 2008, p. xi). As a major landholder, New York State possessed substantial interest in the future of the Park and directed planning for the region. State planning legislation for the Adirondack Park incorporated a hybrid legal framework consisting of the constitutional

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component of the Forest Preserve and the statutory component of the APA Act (Malmsheimer, 2009). Applying this unusual legal framework and ecosystem-based regional land use plan to one of the largest multi-use, protected landscapes in the continental United States, resulted in the creation of an international model known as the "Great Experiment in Conservation" (Porter et al., 2009).

The 1971 Adirondack Park Agency Act statute created, in theory, a state-of-the-art protected landscape regulatory framework that attempted to manage growth issues within a six million acre Adirondack Park region comprised of public and private lands (Glennon, 2009). Within the Adirondack Park, private and public lands would co-exist. The 1971 statute stipulated creation of a private land use plan and by 1973 a plan was enacted by the New York State Legislature (Terrie, 2012). The overall premise of the 1973 *Adirondack Park Land Use and Development Plan* subscribes to the concept of conserving open space by directing development into the Park's existing hamlets and communities (State of New York, Adirondack Park Agency, 2009). To meet its dictate, the fledgling Adirondack Park Agency utilized an innovative approach to growth management for the time, employing Ian McHarg's seminal work, *Design with Nature* (McHarg, 1971). McHarg's land resource capabilities model was combined with an existing use analysis and the innovative hybridized legal framework to form the basis for the Adirondack Park Land Use and Development Plan (Davis, 2009; Lirrof, et al., 1981; McHarg, 1971).

Legislative bargaining, negotiation and compromise in order to achieve passage significantly reduced the efficacy of the Plan's growth management protections (Graham, 1978; Terrie, 1997; Glennon, 2009). With escalating stakes, Adirondack government officials, constituent state legislators and businesspersons objected to the regulations on the grounds that they would hurt the economy, abuse personal liberty to

control private property and abuse local municipalities' authority and rights to govern (Graham, 1978; Terrie, 1997). Compromise was finally reached, the consequences of which involved reducing the powers of the agency and diminishing the effectiveness of the land use plan from its original draft (Graham, 1978; Terrie, 1997; Glennon, 2009). One compromise involves the "hamlet" zone, where the APA has very limited jurisdiction, giving the local government almost complete control over what kinds of development can occur. This is problematic since at the time of the passage of the APA Act in 1971, fewer than ten percent of the municipalities in the Park employed local zoning to manage development in existing hamlets and elsewhere in the towns (Graham, 1978).

Land use planning used the innovations of the time and was generally designed to achieve conservation of a protected area based upon the directions of the Legislative Findings of the 1971 Statute. The unusual legal approach and plan objectives were not perfectly executed, in part because of the diminished scale and scope of the APA Act's authority (Malmsheimer, 2009; Glennon, 2009). The APA Act was not a flawless theoretical model. McHarg's natural science-based planning approach was modified by politics and public policy. While the essence of the plan remained intact, political will and stakeholder concerns modified conservation planning goals for the region (Graham, 1978). The final statute enabled New York to move quickly to implement growth management and land protection policies during a critical time in the history of New York State. Improved land protection for the largest wilderness area east of the Rocky Mountains and 85% of the designated wilderness in the northeastern U.S. was achieved (Thorndike, 1999). A proactive, ecosystem-based model, with an innovative legal framework was progressive design for the times. An imperfect, but functional tool was at hand to implement protected area planning and the world was watching.

State Action, Home Rule and Local Land Use Control

In all 50 states, municipalities do not automatically or naturally have powers of self-government. State governments award or grant local government powers of self-government, or home rule, through a process of devolution and establish the delimitations for home rule authority. In the State of New York, Article 9 of the New York State Constitution endows a "Bill of Rights" for local governments (State of New York, Department of State, New York Constitution, 2010). Embedded within Article 9, Section 2, are the defined list of home rule powers for local governments and these include the "rights, powers, privileges and immunities granted by the constitution" (State of New York, Department of State, New York Constitution, 2010). In addition to other sources of authority and rights, New York State Law, in the form of municipal home rule law, elaborates on the Article 9 constitutional provisions of home rule. On the surface, it appears that local governments are delegated broad powers and local autonomy under the New York Constitution and the laws of the State of New York. However, power is restricted in scope (National League of Cities, 2010).

A keystone judicial interpretation that exists to counter-balance home rule in favor of the states is Dillon's Rule (Richardson, Jr., et al., 2003.) Judge John F. Dillon, of Iowa, decided in 1868 that a state government's relationship to a political sub-division (local government) is a parental one. New York is one of 39 states that subscribe to Dillon's Rule and one of 31 that applies the rule to all municipalities. The rule clarifies a very narrow and strict construction of the breadth of local government powers, provides an approach for interpreting questionable jurisdiction between local governments and the state, and defers to the state if there is any reasonable doubt (Richardson, Jr. et al., 2003; National League of Cities, 2010). New York is a home rule state, granting high levels of autonomy to local governments.

However, it also employs Dillon's Rule, invoking the broad powers of the New York Constitution and the ability of the legislature to override and restrict municipal functions such as land use planning when it is in the best interests of the State (Nolan, 1966 & 2001; National League of Cities, 2010).

Political leadership in New York State in the 1960s and 1970s recognized Bosselman and Callies' (1971) concerns about the cumulative impact of hundreds of local decisions on a landscape of statewide, national, and international significance and more specifically on the Forest Preserve that represented a state asset and resource. With the adoption of the Adirondack Park Agency Act in 1973, the New York State Legislature withdrew from the municipalities within the Park what local governments believed to be a significant piece of their authority to regulate land use. Local governments were operating under the American tradition of independent, local home rule in general and their understanding of New York's specific constitutional license regarding home rule and municipal home rule law (State of New York, Department of State, New York Constitution, 2010). Perceiving a usurpation of their authority by the Governor and the Legislature, towns and villages were unhappy and angry with the creation of a regional authority comprised of a broad statewide membership that could make local development and planning decisions (Graham, 1978; Erickson, 2009).

Further judicial interpretation of the home rule provisions was made in 1977 when the Adirondack Park Agency Act was legally challenged in the highest court in New York State, the Court of Appeals. In *Wambat Realty Corp. v. State of New York* (1977, N.Y. LEXIS 1910), the Adirondack Park Agency Act was upheld. The lawsuit argued that the APA Act preempted local planning and zoning authority and was an unconstitutional violation of home rule (Nolan 1966 & 2001). The Court of Appeals' decision stated that it was New York

State's purposeful intention to forestall local governments from controlling land use decisions in order to serve a supervening interest of the entire State. The Court stated, "to categorize as a matter of purely local concern the future of the forests, open spaces, and natural resources of the vast Adirondack Park region would doubtless offend aesthetic, ecological and conservation principles" (*Wambat Realty Corp. v. State of New York et al.*, 1977 N.Y. LEXIS 1910, p. 2). The New York Constitution broadly defined home rule in a general sense, and the legislature preempted local decision-making on a case-by-case or issue basis when the matter was of critical importance to the people of the State of New York (Nolan, 1966 & 2001; Glennon, 2009). The Court of Appeals emphatically stated in its decision that, "...preserving the priceless Adirondack Park through a comprehensive land use and development plan is most decidedly a substantial State concern, as it is most decidedly not merely 119 separate local concerns..." (*Wambat Realty Corp. v. State of New York et al.*, 1977 N.Y. LEXIS 1910, p. 5).

The judicial system uses the symbol of the scales of justice to present the weighing of viewpoints in litigation. In this case, the balance between overarching concerns of the "state" and individual local government concerns tips in favor of the public interest time and time again in the State of New York judicial system (Nolan, 1966). New York's judicial ruling confirming the Adirondack Park Land Use and Development Plan does not excuse local governments from land use planning. On the contrary, the roles and responsibilities for local government planning are clearly established in the APA Act, enabling local governments to fully participate in a voluntary, tiered regional-local planning partnership.

A Two Tiered Partnership to Regulate Land Use

The political wrangling that occurred among the governor, state legislators and stakeholders between 1971 and 1973

removed the requirement that local governments within the Adirondack Park immediately develop zoning (Graham, 1978; Glennon, 2009). The Court of Appeals decision and the Adirondack Park Agency Act did not shut out local governments from land use planning and decision-making, but rather encouraged future planning through some overt and subtle incentives and, to some extent, funding. In fact, nothing prevents local governments from preparing land use regulations, with the understanding that they conform to and are consistent with (or more restrictive than) the APA Act and New York State Law (Town or Village Law and General Municipal Law).

Overall, APA Act's intentional design and negotiated "re-design" by the New York State Legislature incorporated and encouraged a two-tiered land use planning system and local community planning. Despite a design that enabled and empowered local governments to participate in land use planning and obtain devolved authority from the APA process, few communities engaged in land use planning during the early years of the Adirondack Park Land Use and Development Plan. Moreover, the trend continues—almost one in four Adirondack Park communities do not continually engage in comprehensive land use planning. There are local governments that exhibit continued suspicion and anger with New York State over what they see as an injustice. Other governments engage in planning, but do so with skepticism. There is merit in complaints that land planning in the Park tends to be proscribed and "top down." Reluctance to actively plan or to symbolically and nominally plan, may be a measure of the residual unhappiness and the grudge held against New York State for its "pre-emption" of customary home rule.

Since the 1970s, a growing number of local governments have instituted land use regulations. Records exist that count (and recount) the number of municipalities engaged in local planning activities. Eighteen (17.6%) local governments have obtained approval for

their local planning programs from the Adirondack Park Agency. The number is continually growing, but at a slow pace. For many years, the number remained very small and stable (State of New York, Adirondack Park Agency, 2010). Over 64% of Adirondack communities currently have a basic comprehensive plan, up five percent in the past five years, extending a statewide trend (New York State Legislative Commission on Rural Resources, 2008). Zoning, subdivision and site plan review laws are also increasing, following the statewide trend, with more than half the municipalities having some form of local land use control. The number of Adirondack municipalities that do not have any form of land use regulation ranges between 19 and 27%, depending upon data source (Adirondack Park Agency, 2009).

Local planning is not a panacea, especially in a top-down regional planning environment. Opinions vary on why participation rates vary. Some argue that the overall number of communities actively engaged in planning is small because of costly planning expenses and intense competition for limited financial resources. State, national, and international attention (and funding) is centered on protected area, regional planning and the institutionalization of the Adirondack Land Use and Development Plan, leaving limited resources for growing local planning programs. It is also argued that communities allow the APA to take the responsibility for the consequences of local development decisions (Erickson, 2009). It is politically and practically expedient to make the APA the "fall guy." Laying blame at the APA's feet is easier than taking local responsibility if any planning decisions go wrong and negative community repercussions ensue. Others believe it is because of a lack of capacity (and the ultimate burden) to prepare, adopt and implement sophisticated land use programs (Booth, 2009).

Creating a sense of land stewardship and momentum for community-driven planning at the grassroots and local government level are challenging (Castel-

lanet & Jordan, 2002; Brosius, 2003; Hanna, 2005). Conservation proponents and others see the importance of local land use planning as a critical component of landscape conservation. The Adirondack Council, the largest conservation organization in the Adirondack Park stated "Local planning . . . is not a luxury in the Adirondack Park. It is a necessity" (Adirondack Council, 2001, p. 7). Active participation in land use planning in the Adirondack Park has the potential to empower local governments and citizens, including indigenous communities, to play a critical role in stewarding protected area resources (Burby, 2003; Porter et al., 2009).

Local Planning in the Context of Adirondack Park Regional Planning: A Blind Spot

The Adirondack Park Land Use and Development Plan and its companion State Land Master Plan had significant flaws, despite its progressive and intentional design. Four decades of a principal focus on institutionalizing the regional land use planning scheme have revealed chronic, structural problems with land use planning in the Adirondacks (Booth, 2009). For example, threats from cumulative growth, sprawl and unsustainable development patterns have increased on private lands, especially in the land classifications of Moderate Intensity, Low Intensity and Rural Use. The State (and international groups such as Two Countries, One Forest) focused on the successes of the regional planning model, particularly as it applies to protecting the core protected areas of public lands and contiguous private lands classified in Resource Management (Trombulak, et al., 2008; Two Countries, One Forest, 2009). Scant attention and few resources have been devoted to local governments' responsibility and opportunity for managing land use decisions within their borders.

The Adirondack Park Land Use and Development Plan and the Adirondack Park State Land Master Plan were conceptualized at a scale to regionally man-

age six million acres of public and private lands and more than 10,000 lakes and 30,000 miles of rivers and streams. The protected area includes extended matrices comprised of diverse habitats including boreal forests, old growth forests, floodplains and wetlands of many varieties. Scale is extremely important in landscape conservation. This massive land area is the size of the state of Vermont or the Commonwealth of Massachusetts and comprises nearly one-fifth of New York State's land area (State of New York, Adirondack Park Agency, 2009). Advantages can be gained by regional planning at this magnitude, but there are disadvantages as well.

The expeditious efforts by New York State to adopt regional land use controls for the six million acre Adirondack Park were intended to address immediate and long-term development pressures that were reaching a tipping point. The amenity-rich assets of the Adirondack Region were targeted by real estate speculators, second home developers, and other land based interests as soon as multi-modal transportation enabled access to the region (Graham, 1978; Terrie, 1997; Erickson, 2009). Policymakers throughout New York State and stakeholders of all factional interests saw the handwriting on the wall with regard to increased development pressure on the Adirondacks (Graham, 1978; Terrie, 1997, 2009). The hasty adoption of the APA Act was not supposed to halt development as much as it was to place a build-out cap on density at 400,000 principal buildings.

The APA Act's expedited adoption was also intended to refocus speculative real estate development away from critical habitat and environmentally sensitive areas and direct growth into existing settlements where infrastructure and services existed to support growth. In most cases, in the 1970s, few existing settlements instituted local government-based land use regulations. In recognition of the need to redirect development, three classifications: *Hamlet* (no significant restrictions for development), *Moderate*

Intensity (500 buildings/square mile or 1 principal building on 1.3 acres) and *Low Intensity* (200 buildings/square mile or 1 principal building on 3.2 acres) were conceptualized to accommodate most of the anticipated growth in the Park. In 1973, as a result of the Legislature's negotiated concessions to stakeholders, significant protections were lost to shorelines and roadsides. Shorelines, which were originally considered critical environmental areas, were generally classified as Moderate Intensity, second only to Hamlet in development intensity in the Park (State of New York, Adirondack Park Agency Act, 1999; Glennon, 2009).

While all six APA land use classifications have seen accelerated growth since 1973, the three land use classifications (Moderate Intensity, Low Intensity and Hamlet) became the focus of increased development from 1973 forward (Residents' Committee to Protect the Adirondacks, 2001). In particular, shorelines and roadsides were under limited, if any, jurisdiction of the APA and local governments became the focus of intense and accelerated development (Residents' Committee for the Protection of the Adirondacks, 2001; Glennon, 2009). The location of the actual development is consistent with the design and build-out of the APA Act. However, gaps in the APA Act's land use protections for private lands, due to its broad scale and limitations of regulatory "reach," enable Adirondack Park local governments to maintain overall, sole authority to regulate a majority of total development in the Park, relegating the APA to a far more limited role in the parcel-by-parcel land use decision-making.

New residential, commercial, and industrial structures permitted in the decade of the 1990s indicated that local governments made 80% of the overall land use decisions and 57% of the new principal structure decisions in the Park (Residents' Committee to Protect the Adirondacks, 2001). The APA's project permit review jurisdiction is generally 20%, with the remainder falling

to local government jurisdiction. If the Adirondack Park Agency regulates on average only 20% of the building activity in the Park, then its permitting activity may not be as accurate an indicator of development pressure and new construction activity in the Park as local government permit records. For example, in the 1990s, the highest number of APA permits issued was in 1990 (404) and the lowest was in 1998 (242) (Residents' Committee to Protect the Adirondacks, 2001). In 2009, APA issued 375 permits: 127 of these permits were residential new construction and 86 permits were for subdivisions (State of New York, Adirondack Park Agency, 2009). In municipalities with approved plans, the APA's regulatory jurisdiction may be reduced even further from 20% to 8% (Residents' Committee to Protect the Adirondacks, 2001).

Regardless of the regional design and intended protections of the APA Act, new development is appearing in rapid succession on the shorelines, roadsides, and in hamlets of the communities in the Park. These are areas within the jurisdiction of local governments. From 1967-1987, 19,000 single family dwellings were reported to have been built, representing approximately 5% of the total Park build-out in just 20 years (Glennon, 2009). Tax parcels increased significantly as well. From 1967-1992, the number of tax parcels increased from 45,886 to 72,269 (Residents' Committee to Protect the Adirondacks, 2001). In 2007, the number of tax parcels was reported to be 142,290, almost doubling in 15 years (Adirondack Association of Towns and Villages, 2009). In the three years from 1982-1985, subdivided property sales tripled and then doubled again by 1988 (Erickson, 2009). Between 820 and 850 new structures were built annually in the 1990s (Residents' Committee to Protect the Adirondacks, 2001).

Development pressure and new construction is active at the community scale throughout the Adirondack Park. Growth has not abated even if it might have slowed down. A closer examination

of the 1990-1999 statistics reveals that ten towns were responsible for 2,437 structures— a significant amount of new construction activity (Residents' Committee to Protect the Adirondacks, 2001). Only three of these ten towns had approved APA local planning programs.

One case study example involves the Town of Willsboro which has 42 miles of shoreline, most of which is zoned as Moderate Intensity. In the past 20 years, rapid land use change has occurred in Willsboro due to seasonal swings in population that have driven the resort, retirement and year-round housing market. Willsboro had a significant amount of building permit activity in the period 1990-1999 and was cited by the Residents' Committee to Protect the Adirondacks as one of the "Top Ten Towns for Building Permit Activity" for the period issuing 1,328 building permits (Residents' Committee to Protect the Adirondacks, 2001). During 2002-2009, this trend continued. The town issued 1,167 building permits roughly valued at \$23,750,000 (Town of Willsboro, 2010). The 23 million dollars cited in construction expenditures is significantly understated due to the concern of applicants that their taxes will be raised if they report actual costs.

Notwithstanding this undervaluing, the 23 million dollars investment in seven years is also important as an indicator of the role construction plays as an economic driver in the community. Development activities in this period included approximately 253 new residential and commercial structures, major renovations and "additions" that included partial demolition of traditional lake-front seasonal cottages and replacement with year-round, larger square-footage modern homes (Town of Willsboro, 2010). From 2002-2009, 87 minor and major parcel subdivisions were also approved (Town of Willsboro, 2010). The number of building permits issued during the 1990s was as vigorous as it was in the seven years between 2002 and 2009. Despite the presence of the Adirondack Park Agency Act and local

land use controls, rapid development is transforming the land at increasing rates.

The mere presence or absence of a land use program is not necessarily a reliable indicator of a community's capacity to achieve landscape conservation, implement growth management strategies or engage in sustainable development. The trend for municipalities throughout New York State, including those within the Adirondack Park (although at a slower rate), is to adopt comprehensive plans and land use regulations. The percentage of municipalities in the Park with any form of planning continues to grow, but still lags behind the remainder of New York State (New York State Commission on Rural Resources, 2008). Quality is not measured by quantity and conservation interests point out that the quality of land use regulations is also crucial to the environmental integrity of the Adirondacks (Residents' Committee for the Protection of the Adirondacks, 2001).

The presence of local planning programs at the municipal level is evidence of a very basic capacity to conduct local land use planning. However, the existence of local planning programs may not reflect the adequacy of citizen participation, quality programs of equitable administration and enforcement, systems of quality assurance, or the environmental monitoring present at the municipal level. Participation does demonstrate local interest in taking control to achieve local objectives (New York State Legislative Commission on Rural Resources, 2008). Increased citizen participation in local planning is an encouraging sign since it is a threshold factor in growth management for a protected area (Dougill, et al., 2006; Park, 2001; Theobald & Hobbs, 2002; Castellonet & Jordan 2002; Brosius 2003; Hanna 2005). Where communities approach local planning in a comprehensive fashion (e.g. preparing a comprehensive master plan, appointing a planning board, and adopting a suite of land use regulations such as a zoning, subdivision and site plan review law) they are demonstrating, in theory, increasing capacity

and professionalism to manage local decision-making (Residents' Committee to Protect the Adirondacks, 2001).

No analysis (singly or in comparison) of the substance, quality, or effectiveness exists for Adirondack local government land use planning programs. The APA approved land use programs provide a criterion-referenced basis for 17.6% of the land use regulations and some believe that these programs are exemplars in New York State (Residents' Committee to Protect the Adirondacks, 2001). Research is insufficient or unavailable to ascertain the effectiveness of local land use programs in their attempts at sustaining or improving ecosystem health. Measurable goals or indicators of how local land use programs impact environmental quality, societal improvements and economic vitality of the communities are not available (Booth, 2009). Local land use programs, including the APA approved local land use program, must meet minimum requirements to obtain APA approval, but there are no quality assurance programs instituted to measure ongoing performance and enforcement at either the regional or local level. Critics indicate that the standards for meeting APA plan approval have been inconsistent and subject to political will over time (Glennon, 2009).

Without a measure of evaluation or quality assurance in the content of local land use programs, one can only assess the outcomes of local decision-making within the Park by the results in terms of the consequences of development. The loopholes in the weave of the regionally-scaled Adirondack Land Use and Development Plan have directed development into high density land classifications—all areas where local government conservation actions and growth management were conceptualized as filling in the gaps. If local governments were consistently utilizing sustainability principles, such as Smart Growth, then intensified growth would not fuel visible sprawl along roadsides and shorelines in Moderate Intensity, Rural Use and Resource Management classifications where the APA Act

has limited reach (Residents' Committee to Protect the Adirondacks, 2001). Another area where local governments could strengthen their role would be in adopting clustering and conservation subdivision regulations as the rule, not the exception in order to reduce forest and agricultural land fragmentation, concentrate, and intensify development to avoid sprawl. The APA Act does not include a formal regulatory provision for clustering development in all classifications and only refers to the concept of clustering in Resource Management and Rural Use (State of New York, Adirondack Park Agency, 2010). The cumulative effects of intensifying growth and the lack of information and feedback on the quality assurance and effectiveness of local land use programs can result in a landscape conservation blind spot—resulting in ineffectual local planning programs and perpetuation of incompatible development. The Adirondack Park Agency Land Use and Development Plan cannot act alone to protect open space and sustain the protected living landscape. An active and sustained partnership with local communities is essential.

Local Planning's Cumulative Impacts on the Adirondack Park's Living Landscape

Ecologists are concerned about rapid land use change in the Adirondacks, a landscape internationally renowned for its vertebrate diversity, important location and size (Baldwin et al., 2008). Land use changes can be observed in the fragmentation of forests and farm fields and in the presence of intensive shoreline development and redevelopment. In communities where waterfront development is present, shoreline conversion from a natural to artificial habitat is another indicator of land use change. Native vegetative cover is eliminated in favor of lawns, and natural shorelines are occluded by the emplacement of retaining walls. Construction of residential structures increases on small lots, and aquatic and ecotone habitat are destroyed.

Despite collaborative efforts to manage growth through an APA-approved local planning program, rapid land use change is causing forest fragmentation, intensive shoreline development, redevelopment, and conversion of agricultural lands to residential development. Local governments might possibly be disinterested, disinclined, and discouraged from engaging in careful and collaborative land use planning. The popular belief that growth is "good," incentivizes land conversion. Real estate development and the tax revenues that appear to flow from "improved" property drive political decision-making at all levels of government.

Local governments and New York State share uncertainty about planning. State policy contains ambiguous statements about local government responsibility towards comprehensive planning. New York law does not mandate plan preparation, but instead requires land use regulations to be prepared in accordance with a well-considered plan (New York State Department of State, 2008). Comprehensive plans are customary pursuant to planning theory and professional practice and state agencies recommend their preparation (New York State Department of State, 2008; Kelly & Becker, 2000). The comprehensive plan is the legal backbone of the land use laws promulgated by local governments. If a land use law is challenged, the comprehensive plan becomes essential evidence to support a community's case in judicial proceedings. Comprehensive plans act as an essential reference required by funders. Grantees are required to cite their capital projects in their comprehensive plans in order to secure grants. Local governments can see comprehensive planning as complicated, expensive, mysterious, and ambiguous. Effective planning is hindered by local governments' lack of understanding of comprehensive planning and ambiguous legal language offered by the state. Municipalities fear legal challenges to land use laws. The writers of a comprehensive plan can

set into motion recommendations and actions that may impact many people, properties, and interests over various geographic scales. These constitute strong motives to undertake comprehensive planning.

Town-level planning, particularly in the Adirondack Park, provides an extraordinary opportunity for citizens to fully participate in land use decisions affecting property owners. Civic participation in a comprehensive planning process is essential for community engagement in plan development and implementation. It is equally important that the "state of the art" practices of planning and the most current and available scientific information be used to inform and shape the process (Burby, 2003). Communities engaging in careful planning are able to evaluate which land parcels or sections of a community are viable to develop (or not) based upon the environmental, cultural, geographic, infrastructure, economic, etc. characteristics of the community, including its land and water resources. An inadequate understanding of how the natural environment is influenced by growth and development can result in a planning decision that is contrary to ecologically sensitive land management (Thompson, 2004).

In living landscapes, proactive land use planning can play a critical role and reorient the way a community reacts to, responds to, and manages land use change (Hanna, 2005). Although the legal and political framework for planning in the Adirondacks are flawed and misunderstood, local planning can provide an effective tool to improve citizen and government capacity for land use decisions, particularly in a challenging, regional-local collaborative land management process.

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