New York’s 6 million acre Adirondack Park is beautiful, largely wild, and always fascinating. Trying to keep it so requires efforts on many levels. This article discusses what I call here “the Adirondack Park Structure.” The state’s Adirondack Park Agency (APA), on which I serve, is one of the cornerstones of that structure. While “Adirondack Park Structure” is a somewhat awkward term, it usefully captures the legal and institutional framework created to manage land use and development in order to protect the Park’s resources. The term encompasses:

- the Park’s boundary (the so-called “Blue Line”), as established by state statute;
- Article XIV of the New York State Constitution, which provides that virtually all of the Park’s state lands will remain “Forever Wild”;
- the State Land Master Plan (SLMP), which establishes various classifications for the Park’s state lands, including a number of major wilderness areas;
- the Adirondack Park Agency Act (including the Adirondack Park Land Use and Development Plan, or APLUDP), which establishes a significant and complex regulatory scheme for development on non-state-owned lands in the Park;
- New York’s statewide Freshwater Wetlands Act (FWA) and Wild, Scenic, and Recreational Rivers System Act (WSRSPA) as they apply in the Park;

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- the several roles of four New York State agencies regarding the Park’s environmental resources, i.e., the APA, the Department of Environmental Conservation (DEC), Department of Health (DOH), and the Department of Transportation (DOT); and
- the important role played by Adirondack local governments regarding the control of land development.

This article does three things. First, it briefly identifies a series of weaknesses in the Adirondack Park Structure. Second, just as briefly it reviews a number of that structure’s primary strengths. Third, taking into account these weaknesses and strengths, it provides a number of observations about how we can look at the Park’s future.

Preliminary Points
Several introductory points are important. A number of people have asked me in recent months what it is like to “return” to the APA. Their question is prompted by the fact that I worked as a lawyer on the original APA staff in the 1970s and now serve as one of the agency’s eleven commissioners. My answer is that coming back to the APA is a bit like watching pieces of an old movie one has seen before, but I have to be careful to avoid thinking it is in fact the same movie. Certainly a lot of the same issues are still around from the agency’s early days, and so are some of the same characters (albeit they are a good deal older, as I am). However, there are new and constantly evolving Adirondack issues, and there are many new characters providing an even wider range of perspectives than we heard in the 1970s.

Beyond the term “Adirondack Park Structure” I do not provide any other definitions here. Discussions about the Adirondack Park today are filled with specific “terms of art,” e.g., “Class A regional projects” and “Class B regional projects,” “Resource Management Areas” and “Rural Use Areas,” “overall intensity guidelines,” “shoreline cutting restrictions,” “critical environmental areas,” and “nonjurisdictional shoreline subdivisions.” I will leave it to readers to decide which Adirondack-specific terms merit their further exploration.

A note about history is appropriate. The various pieces of the Adirondack Park Structure did not come into existence at the same time. For example, Article XIV of the State Constitution dates from the 1890s. DEC, DOH, and DOT acquired various pieces of authority affecting the Park at different times (and in most cases their authority applies to all of New York State, not just the Park), and local governments’ land use control powers result from actions by the state government over a number of decades. Major pieces of the Adirondack Park Structure were created in the 1970s, with the adoption of the APA Act, SLMP, FWA, and WSRSPA. The Park Structure continues to evolve, as state statutes, regulations, and policies undergo change.

Finally, three caveats are necessary. First, this article does not pretend to be a definitive discussion about all relevant points regarding the Adirondack Park Structure; it cannot encompass so extensive a discussion. Second, I am not speaking for the Adirondack Park Agency in this article. What is said here reflects only my views. Third, nothing stated in this article constitutes a prejudgment of any kind on my part regarding any issue that will appear before the agency at some point in the future.

Structural Weaknesses
The Adirondack Park Structure contains significant weaknesses. That may come as a surprise to some, but not to many others. The nine weaknesses briefly identified here reflect my opinions (and again, this listing is not exhaustive); others may see these elements in a different...
light. In any event, it is useful to think about the Park Structure’s limitations.

1. The APA’s jurisdiction under the APA Act, the FWA, and the WSRRSA over private development activity in the Park is complicated and consequently difficult to explain to the general public, and even to professional practitioners. Since its earliest days the APA has undertaken countless educational efforts regarding the various elements that define its legal jurisdiction. Despite those efforts, clarity remains elusive given the multilayered interplay of six different land use areas, Class A and Class B jurisdiction, approved and not-approved local land use programs, restrictions on shoreline development, and pre-existing lots and subdivisions, to mention just some of the contributing sources of complexity and confusion.

2. The APA Act is based on unrealistic assumptions regarding the capacity of most Adirondack local governments to initiate, adopt, and implement sophisticated local land use planning programs. The 1973 amendments to the APA Act anticipated an important partnership between the agency and local governments regarding review of land development activities in the Park. However, the requirements imposed in order for local governments to participate fully in that partnership and take over review of Class B regional projects from the APA were far too burdensome for most local governments to satisfy. Consequently, relatively few Adirondack local governments have adopted APA-approved local land use programs.

3. The state’s ability to enforce regulations on development of the Park’s non-state lands is significantly limited. Neither the APA Act nor any other provision in state law forces private landowners, before they initiate land development activity, to ask the agency whether the action they are contemplating requires APA review. Consequently, large numbers of violations of APA regulatory authority occur, and much of the agency’s enforcement efforts involve dealing repeatedly with landowners who essentially claim, “We did not know we were violating the agency’s rules.” If the magnificent resources of the Adirondacks are to be adequately protected for the future, New York State needs to establish a mechanism that requires landowners to initiate discussions with the agency before they undertake land development activities that may fall within its jurisdiction.

**Landowners need encouragement to see that protecting the Park serves their individual interests.**

4. The Park’s shorelines constitute its most significant natural resource—most significant because their use dramatically affects water quality and the many life systems dependent on clean water, because they are generally quite fragile, and because they are absolutely vital to the Park’s special beauty. Unfortunately, the APA Act does not adequately protect many Adirondack shorelines. The weaknesses of the Act in this regard stem directly from what was politically feasible when the APLUDP was adopted by the State Legislature in 1973. In many instances the act’s provisions allow far too much development close to shorelines and impose building setbacks, vegetative cutting, and other standards that might arguably be appropriate in suburban areas but are not nearly adequate in this huge, spectacular park.

5. The tremendously important Forever Wild protection of state-owned Forest Preserve lands often makes it difficult to locate, relocate, or modify utility line corridors that serve the needs of the Park’s permanent and seasonal residents. In numerous places it would make environmental and economic sense for utility corridors to cross Forest Preserve lands for relatively short distances. Article XIV’s provisions, however, have often made doing so tremendously difficult to accomplish, resulting in extended arguments and delays in needed projects. For decades it has been clear that Article XIV should be amended to create a modest-sized land bank of Forest Preserve acres that can be carefully and sensitively used for locating and adjusting utility corridors, but clarity of the issue has failed to produce much-needed action.

6. New York’s Environmental Conservation Law (ECL), implemented by DEC, does not contain a general environmental protection standard requiring that agency to treat the entire Park as a special place. DEC is New York’s flagship environmental agency, and successful implementation of its authority over the state’s air and water, fish and wildlife, and activities that generate pollution, for example, is essential to resource protection across the entire state. However, state law makes protection of the resources of the Adirondack Park a particularly high priority, and amendments to the ECL are necessary in order to make that heightened priority binding in all areas where DEC exercises authority.

7. The fact that so many Adirondack communities continue to struggle with inadequate sewer and/or water supply facilities constitutes a major weakness in the Park Structure. In order to best protect the Park’s environmental resources, the APA Act encourages growth and development in the Park’s Hamlet areas. While some of the Hamlets are incorporated villages, many are not; and all Adirondack Hamlets are small, meaning that significant financial assistance is necessary if they are to have high-quality sewer and water facilities. Hamlet development in ways that protect environmental resources is vital to the Park’s future. Nearly 40 years after the Act’s adoption, continuation of significant sewer and/or water supply
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problems in many of the Park's community centers makes clear that New York State has failed to make adequate commitments to solving these problems. Each of the previous seven weaknesses is significant. The last two, however, are the most important.

8. The APA Act establishes vitally important regulations on land development in the Park, but it fails to provide economic incentives and disincentives that encourage landowners to use their properties in ways that further the statute's environmental resource and open space protection purposes. Incentives and disincentives are needed to supplement the APA's regulatory authority and increase the likelihood that private lands are used in ways that ensure the Park's long-term protection. For numerous reasons the regulatory provisions of the Park Structure cannot by themselves adequately protect the Park's resources. For example, under the APA Act large numbers of small development projects do not require APA permits, and both political and financial realities make it difficult for the agency to employ sufficient staff to adequately implement the authority it does have. Landowners need encouragement to see that protecting the Park serves their individual interests.

The state's much-needed acquisition of conservation easements on significant pieces of private property in the Park does provide some degree of incentive for certain landowners to use their properties in ways consistent with the resource protection purposes of the APA Act. However, state-acquired conservation easements are unlikely to cover large numbers of Adirondack properties. The statute would be significantly strengthened if it provided, for example, state-funded property tax abatements to all landowners who choose to maintain significant lands as open space.

For much too long the nation has been engaged in a largely fruitless debate about whether regulatory provisions or economic incentives and disincentives provide the best means of protecting the environment. In fact we are most likely to develop successful environmental protection programs if they creatively integrate both types of mechanisms. The Park would benefit significantly from the careful combination of the APA Act's regulatory provisions and mechanisms that make it financially attractive for landowners to act in environmentally beneficial ways.

9. The Park Structure does not contain any adequate means for assessing the Park's evolving environmental, social, and economic health. This deficiency is exceptionally important. Three vitally important, interlocking questions about the Park's state of health always demand answers, and the importance of those answers will grow as the future unfolds:

• How healthy is the Park—environmentally healthy, socially healthy, and economically healthy?
• Is the Park becoming more or less healthy—in environmental, social, and economic terms?
• What difference has the Adirondack Park Structure made in terms of the Park's environmental, social, and economic health?

The hard-to-accept fact is we cannot readily answer any of these questions. Of course, pieces of answers lie in many places, but acquiring a general sense of "how the Park is doing" is difficult. The APA is now trying to look at how the Park has changed since the APA Act was adopted in the 1970s, but at present there is no reasonable definition about where to look and what to look at to gain a meaningful, overall picture of the Park's health. Those of us with deep interest in the Adirondacks will have to figure out how to create an ongoing, accessible, expandable, and affordable system for assessing the Park's environmental, social, and economic well-being. The work done by the Adirondack Research Consortium is important to the future well-being of the Adirondack Park, and the contributions of its members regarding this flaw in the Park Structure could prove particularly valuable.

Structural Strengths

Significant weaknesses in the Adirondack Park Structure do not obscure that structure's major strengths, and they should not leave us discouraged about the ongoing necessity of facing the Park's challenges with hope and energy. The following nine elements, each important by itself, collectively provide that structure with great resiliency.

1. The Forever Wild language of Article XIV of the state constitution, applicable to almost all of the Park's state lands, constitutes the single most significant element contributing to the long-term protection of the Park's natural resources. The state currently owns more than 40 percent of the Park's 6 million acres. No public lands in the United States are protected in a legal sense nearly as strongly as the Forest Preserve in both Adirondack and Catskill counties. The action of our predecessors more than a century ago in adopting the Forever Wild provision set a high standard for future generations to meet in their efforts to protect the Adirondacks.

2. New York State continues to acquire important resource lands and add them to the Forest Preserve. The overall character of the Park requires maintaining a balance between the amounts of public and private lands in the Adirondacks. At the same time...
the state, under DEC’s leadership, has recognized the importance of assuring permanent protection of certain private lands that possess particularly high natural resource values by purchasing them and adding them to the Forest Preserve.

3. The APA Act deals with the entire Park, requiring preparation and implementation of a comprehensive plan for the Park’s state lands (the SLMP) and another for its non-state lands (the APLUDP). It requires the APA to make decisions that consider the integrity of the Park as a whole. As a result, the act prevents the piecemeal division of this enormous, environmentally vital region.

4. The framers of the APA Act recognized the immense importance of vast open spaces to the overall character of the Park. They recognized further that protecting the Park’s open space character for the long term required protecting the Forest Preserve and placing substantial development limitations on major portions of the Park’s privately owned lands. As a result the APLUDP designates approximately 85 percent of the Park’s private lands as Rural Use Areas and Resource Management Areas (i.e., the act’s two most restrictive classifications pertaining to non-state lands).

5. Adirondack local governments retain their ability and authority to determine how their communities should evolve. Except for certain restrictions regarding shorelines, the state-adopted land use controls established by the APA Act, the FWA, and WSRRRA do not remove the power of local governments in the Park to enforce their own land use controls. The Park Structure encourages local governments to plan for their future, whether or not their land use programs receive APA approval. As noted previously, the APA Act is flawed regarding agency approval of local land use programs.

However, APA approval is not necessary for local governments to adopt and implement their own land use controls. For example, in communities with local controls that the agency has not approved, developers undertaking “regional projects” as defined by the act must satisfy both locally adopted and state-adopted development restrictions.

6. Hamlets designated by the APLUDP constitute the places where significant development should occur in the Adirondack Park. With over 130,000 people living permanently in the Park and much larger numbers visiting for varying periods, some growth in the Park is necessary and desirable. Much of the best conservation-based thinking about controlling land development in environmentally sound ways focuses on the importance of concentrating new growth in places where existing use patterns, infrastructure, community traditions, and resource capabilities indicate that growth can be adequately absorbed. In its designation of Hamlets as growth centers, the APLUDP reflects this thinking.

7. The APA Act makes clear that the state’s interests in preserving the Park’s open space character and its other natural resources are much more critical in its remote, less developed, and/or highly sensitive resource areas than in already developed areas. Use areas. Similarly, the act provides highly restrictive overall intensity use guidelines (i.e., the act’s critical limitations on development density) in Resource Management areas, much more lenient guidelines in Rural Use, Low Intensity Use, and Moderate Intensity Use areas, and no density limitations at all in Hamlets and Industrial Use areas.

8. As a forum for deciding critical Adirondack Park issues, the APA helps counteract one of the primary weaknesses of the nation’s political culture, i.e., our politics overwhelmingly emphasize the value of political choices that serve short-term gain. The agency is charged with making choices that will protect the Park over the long term. To a significant degree, therefore, the APA focuses on what is best for the future. This is not to say the APA can or should ignore short-term concerns. Annually reviewing hundreds of proposed projects, and deciding that hundreds more are not subject to its review jurisdiction, force the agency and its staff to deal with the present day. Nevertheless, the APA Act, along with other elements of Park Structure, go a long way toward guaranteeing that the Adirondacks of tomorrow will not be buried by today’s demands.

9. The APA membership helps counter another of the great weaknesses in American political culture, i.e., our politics strongly and pervasively encourage political actors, both within and outside government, to ignore and/or ridicule the opinions of people with opposing political views. Far too frequently actors in the political arena say essentially the following to their opponents: “We won’t listen to you, regardless of what you say” or “Whatever you say doesn’t matter at all because you’re stupid and probably evil.” That type of destructive political interaction is unlikely in the APA’s deliberations. By law, the agency’s
membership consists of persons who come from very different places, a requirement that essentially ensures the agency will always reflect a diversity of viewpoints. Three APA commissioners are senior state officials serving at the will of the Governor. In addition, the Governor appoints eight citizen members who serve staggered four-year terms. These citizen members must include five full-time Park residents and three state residents who do not live full-time in the Park. Furthermore, no more than five of these eight members may come from the same political party. Of course, nothing forces agency members to listen to or deal reasonably with one another. But the APA Act requires that they at least talk with each other. This enforced deliberation makes it highly likely that discussions of Adirondack Park issues will avoid the destructive character of many of the nation’s political debates.

The larger world can draw important lessons from this country’s greatest national parks, such as Yellowstone and Grand Canyon, but it can learn much, much more in the Adirondacks about how people can live in balance with the natural world.

They have contributed immensely to the Park’s unique history over many generations and remain vital to its character and ambiance. In addition, the most important lessons the nation and the rest of the world can draw from New York’s efforts to protect the Adirondack Park turn entirely on the fact that this is a “park” in which real people lead real lives. The larger world can draw important lessons from this country’s greatest national parks, such as Yellowstone and Grand Canyon, but it can learn much, much more in the Adirondacks about how people can live in balance with the natural world.

Third, future Adirondack decision-makers will in all likelihood confront quite different realities than those we presently see. While the Park Structure possesses substantial capacity for responding to change, future decision-makers may well find it necessary to adapt that structure to circumstances that vary widely from those of today.

As a starting point, consider how substantially the Adirondack economy has changed since 1973 when the Legislature adopted the APLUDP. The magnitude and rapidity of national and international change in many areas—e.g., economic growth, the character of industrial and commercial operations, communications technology, patterns of energy production and consumption, and (probably most importantly) climate conditions and species distribution—strongly suggest that the rate of change over the next 50 to 100 years will be far more rapid than anything experienced in recent years. The Park Structure may well have to evolve substantially in order to deal with a significantly altered environmental, social, and economic landscape.

While many may resist any major change in that structure, the Park’s past must not create a stranglehold on future Adirondack leaders as they struggle with realities their predecessors did not have to consider. We know today that much that has previously occurred in the Park cannot reoccur. For example, many of us
are lucky to have visited some of the still existing Adirondack Great Camps. Nevertheless, we understand that the social, economic, and political circumstances that permitted those camps to exist have disappeared. We should understand also that they will not reappear and that they should not reappear in an evolving democratic society. In this regard it is especially important to remember that the current Park Structure is radically different from that which existed prior to the 1970s. Change at a similar scale may be necessary at some future point.

Fourth, future Adirondack leaders will have to recognize and understand the big-picture issues that face the Park. History suggests doing so will prove difficult. Choices about the future generally work best when decision-makers develop a realistic understanding of those factors that are most important in shaping what is to come. Grasping what the big-picture issues truly are never proves easy, however, particularly because evolving circumstances so often alter their details and even their fundamental form. For example, protecting the Forest Preserve with a constitutional amendment in the 1890s required peering far into the future, but few leaders of that day foresaw with any real accuracy the enormous evolution of the Forest Preserve over the intervening eleven-plus decades. Significantly, the big-picture ideas embraced by New York State in the early 1970s in adopting the APA Act flowed directly from the state’s rejection of a very different big-picture proposal strongly promoted by some in the 1960s, i.e., creation of a large national park within the Adirondacks.

As is true now, it will take wide open eyes and perceptive minds to understand the really large Adirondack issues of the future. As a young APA staff member, I was lucky to have opportunities to learn a great deal from Richard Lawrence, the agency’s first chairman. Traveling with him along the Northway one day, I commented that the highway had exacerbated a number of environmental problems in the eastern part of the Park, tied to greatly increased access and therefore much more development. While Lawrence acknowledged that the Northway had generated or enlarged certain problems, he argued strongly that its building constituted an enormously positive step for the Adirondacks. He pointed out that the Northway picked people up off narrow, twisting roads where visibility was limited and permitted them to see and appreciate the Park’s wide, sweeping beauty and magnificence. He believed that the increased public awareness of Adirondack grandeur far outweighed whatever negative impacts could be linked to the Northway. Many may reject that position, but I urge caution in doing so. As already noted, big-picture concepts are usually complex and difficult to see. Moreover, very few people in the last 50 years, if any, have seen the Adirondack Park with as much foresight and wisdom as Richard Lawrence did.

Fifth and finally, we will continue to struggle with competing visions of what the Adirondack Park is, should be, and will be. That struggle is inevitable, and voices from all persuasions are important in shaping our views and conclusions as the future arrives and then continues to unfold. We should neither expect nor desire unanimity.

From my perspective the Park is a vital, always changing, remarkable region—a 6 million acre, largely wild area located in a highly populated state, with many thousands living permanently in it and many, many more coming to it for shorter periods. I see the Park as uniquely valuable because of the significant, countless, and subtle interconnections that exist between its Forever Wild lands—whose protection is guaranteed for all generations by the state’s constitution—and its privately owned lands—which exist in many sizes and configurations, and reflect widely varying use patterns. I see this special "park" as a beautiful, environmentally healthy gem, a gem that holds special significance for the entire state, the nation, and the larger world.

At the same time, I know that my perspective, while shared by many, does not make sense to many others. From the debates about the Park that raged in the early 1970s, a particular comment by opponents of the APA Act often comes back to me: "Don’t tell us we live in a park." I was young then, and that remark always caused me to tell myself, quietly: "They refuse to understand that this is in fact a ‘park.’" For decades state law has defined it as a ‘park.’ They cannot ignore reality." It took me a while to appreciate that some who live permanently in the Adirondack Park do not see it as a "park." They do not because this is where they have their homes, schools, businesses, churches, and cemeteries and because this is where they have to build economically viable lives for themselves and their children.

Some may quickly dismiss the "Don’t tell us we live in a park" comment, but I do not. For many that view is both sincere and logical. Indeed, during this past spring semester a Cornell student, upon learning about the mixture of public and private lands in the Adirondacks, said to me, "I have never heard of a park where
people actually live.” Again, defining what the Adirondack Park should be will remain a continuing challenge.

Closing
Instead of attempting to summarize the previous comments, I will close with a story and an observation. In the months prior to August 1, 1973 (the effective date of the APLUDP), the Paparrazzo brothers, successful developers from Connecticut, proposed an enormous second home development near Tupper Lake. The proposed project, known as Ton-Da-Lay, would have covered approximately 18,000 acres of land (property formerly owned by a timber or paper company) and include 4,000 dwelling units, roads, utilities, riding trails, and other accessory uses typical of a major second home development. If fully built, the many thousands of people occupying the project site would have dwarfed the population of any Adirondack village. Eventually the project was not built, but the following incident is instructive.

Understandably, this huge project generated a good deal of opinion, i.e., opinion strongly in favor of Ton-Da-Lay because of jobs, real estate taxes to be paid, and other economic benefits it could potentially generate; and opinion strongly opposed to the project because of its potential for inflicting a significant amount of environmental damage. For reasons that related to limits on APA project review jurisdiction before August 1, 1973, the developers did not need the agency’s approval, but they did need approvals from DEC and DOH. Given the rising level of controversy surrounding Ton-Da-Lay, DEC held a meeting in Albany so the developers could talk informally about the project with a variety of interested parties and try to answer their questions. Leaders of environmental organizations were among those invited, and I was one of the APA staff who was also present.

The Paparrazzo's came prepared. At the front of the meeting room they hung a huge conceptual plan map that showed the proposed project in considerable detail. On it were indicated the topography, ponds, streams, forested areas, and other natural features of the project site, as well as the areas where homes were to be built and the locations for roads, water treatment facilities, recreational areas, and other aspects of the project. Prominently featured on the conceptual plan were quite a few areas of various sizes where no development of any kind would be permitted. I believe the largest of these “no-build” areas individually covered 25 to 30 acres, and I recall a number of them were strips of land ranging approximately 200 to 600 feet in width and 1000 to 2000 feet in length.

One of the brothers described the proposed project at length. In doing so, he mentioned the purpose and value of the site’s no-build areas, each time referring to them as “wilderness areas.” Each of his “wilderness” references caused near laughter and some discomfort among the environmental leaders present. Eventually one of the environmentalists politely said essentially the following: “You have referred frequently to what you call ‘wilderness areas’ on the project site. We know what ‘wilderness’ really is in the context of the Adirondack Park. The recently adopted State Land Master Plan designates a number of very substantial, bona fide wilderness areas. The very small no-build areas shown on your conceptual plan are not wilderness areas.”

Paparrazzo’s reply was and is worth remembering: “We will be selling second homes in this project to many people from New York City and its suburbs and from other large metropolitan areas in the eastern United States and eastern Canada,” he replied calmly but earnestly. “For those people, any area consisting of hundreds of feet of uncut woods is ‘wilderness.’ Our customers will think of these portions of the project site as wilderness areas, and we will go on referring to them as wilderness because they will understand what we are saying.”

A clear, critical lesson emerges from this story, i.e., concepts basic to the Adirondack Park Structure—in this instance the definition of “wilderness”—are subject to radically varying interpretations by reasonable people. Many different individuals and groups understand, and pursue applications of, a large number of Adirondack-related concepts in widely differing ways. These differences of understanding and opinion exist, and they exist honestly. These differences are not going to disappear. The Park Structure encourages, indeed requires, open, multisided, robust discussions about these concepts and about what the Park is and what it will become.