PRESS RELEASE

March, 1978

The Adirondack Council has made public its response to the 1977 Annual Report of the Adirondack Park Local Government Review Board. According to The Adirondack Council, the Review Board, formed to advise and assist the Adirondack Park Agency, has instead, proposed changes which would render the Agency useless. The Adirondack Council, a coalition of environmental groups and individuals, including Adirondack residents, considers the Review Board's attitude a grave threat to the Adirondacks.

In its detailed response the Council states that only 25% of the land in the Adirondack Park is owned by Adirondack residents. They control the boards of the 107 municipalities in the Adirondacks. The Adirondack Park Agency's land plan allows for the construction of an estimated additional 500,000 new houses in the Park as compared with the present estimated 60-70,000. And the Agency has encouraged the municipalities to adopt their own local zoning plans within the limits of the Agency's guidelines. The Council further states that only 2% of the municipalities have availed themselves of this opportunity; presumably the others want unlimited building. Yet it is to them that the Review Board proposes to give the majority of the seats on the Agency board - in violation of the rights of the remaining 75% owners of the Park, chief of whom are the 19,000,000 citizens of New York State, who own 40%.

The Council feels that the state and private lands in the Adirondacks are so closely intermingled that the character of the Park will be irreparably damaged if the private lands are not protected. The Adirondack Park Agency Act should not be immune to minor modifications, but the Agency in essence is all that keeps the Adirondacks from being overrun. Other regions of the United States whose environments are threatened are watching New York to see whether its defense is greatest resource of natural beauty. The Council is concerned that proposals such as the Review Board's must not be allowed to destroy the means of defense.

THE RESPONSE OF THE ADIRONDACK COUNCIL TO THE 1977 ANNUAL REPORT OF THE ADIRONDACK PARK LOCAL GOVERNMENT REVIEW BOARD

The Adirondack Park Local Government Review Board has tended to act as adversary to the Adirondack Park Agency rather than to advise and assist it as mandated by Section 803-a of the Adirondack Park Agency Act. The LGRB has muted its tone somewhat in its 1977 Annual Report, but its hostility to the Agency is still clear. Some of the LGRB's recommendations and supporting data track the proposed changes of the Harris/Stafford Bill which both Glenn Harris and Ron Stafford say will be reintroduced in the 1978 Legislative session. This bill would so substantially transform the essence of the Park Agency as to nullify it. The present equitable representation on the Park Agency would be upset, and sound regional land use planning and regulation for the Park would be destroyed because the new commission could administer only ineffective controls. There is still a need to supplement and modify the current Adirondack Park Agency statute, but several of the LGRB recommendations go beyond reason. Below are the recommendations of the LGRB and the Council's responses, followed by some suggestions from the Council for constructive steps.

"LGRB Recommendation No. 1

Membership of the Adirondack Park Agency should include one member residing in each of the 12 Adirondack counties. Such resident landowners, as nominated by their county boards, should constitute the majority membership of the Agency."

Who owns the Adirondack Park? Approximately 38% of the land in the Park is state-owned forest preserve. Approximately 35% of the Park's land is privately owned by New York residents or corporations residing or having headquarters outside the Adirondack Park blue line. Park residents, permanently residing inside the blue line, own about 25% of the Park's acreage. And finally, about 2-3% belongs to out-of-state owners. The LGRB emphasizes that fair representation is at the very heart of our system of government. Considering the ownership pattern, the present makeup of the APA with 5 resident members, 3 non-resident members, and 3 state ex-officio members provides for much fairer representation than the LGRB's proposal that twelve residents constitute a majority membership. The LGRB alleges that state representation is not of major concern because the forest preserve is under the exclusive jurisdiction of the D.E.C.—not the Adirondack Park Agency. This reasoning is spurious. Given the checkerboard pattern of private and state ownership, private development can have radical impact on neighboring state lands. Many APA decisions have modified that impact and will continue to do so. Further, even though DEC is responsible for the administration of the Forest Preserve, the legal responsibility for the determination of broad management policy rests largely with the APA. Though private, resident landowners own only about ¼ of the Park's land, they have the majority of private sector representation with 5 members on the Agency compared to 3 non-resident members. The state ex-officio members of the Agency are impartial and equally represent in-Park as well as state-wide interests. This fact, denied or ignored by opponents of the Agency, is clear from even a casual analysis of the ex-officio members' voting record (e.g., in the matter of conceptual approval for the 70 and 90 meter ski jumps at Intervale). In fact, considering who actually owns the Adirondack Park and the overriding state interest therein, the present makeup of the Agency, with its citizen membership heavily weighted in favor of residents, is inconsistent with what the Temporary Study Commis-
sion on the Future of the Adirondacks recommended as equitable representation. The LCRB’s recommendation to increase resident representation on the Park Agency to one member from each of the 12 Adirondack Counties cannot be taken seriously. Further, increasing the resident representation by even one additional member can simply not be justified.

"LCRB Recommendation No. 2

The private land use and development plan map and the criteria for classifications thereon should be subject to a balanced, comprehensive review, irrespective of whether individual municipalities adopt APA-approved local land use programs.”

The APA recently approved a policy of considering and approving map amendments to municipalities irrespective of whether they did or are about to adopt APA-approved local land use programs. The Adirondack Park Land Use and Development Plan Map is constantly subject to a balanced review because the provision for map amendments is available to every landowner in the Adirondack Park who can justify a map change. Additionally, municipalities can adjust intensities of development within APA land classifications to refine the map, based upon data accumulated in the local planning process.

The criteria for classifications are sound. Basically APA lets the land “plan itself.” In other words, people trained to accurately interpret natural resource and other values of a parcel of land and the potential impact of development upon the resources, determine the best classification. This is done by evaluating, primarily, physical, biological, and public considerations, with secondary attention paid to existing land use, location of public facilities, economic and social needs, population projections, etc. This is in contrast to the traditional process of classifying land and land uses primarily according to the alleged needs of individuals—needs often based on a wish to make a profit on land subdivision or some other speculative venture which may be inconsistent with the general welfare.

Thus the system for equitable classification of land already exists. It remains for individuals and municipalities to work with the system rather than oppose it. Corrections can be made by the map amendment process and by refinement of the Land Use and Development Plan Map during the local planning process.

The LCRB is in error in contending that economic growth is limited to the hamlet classification. It is true that some projects that provide economic growth in classifications other than hamlet require Park Agency review. The Agency record, however, shows that the vast majority of projects are approved. If one looks even casually at the lists of compatible projects in moderate intensity use, low intensity use, and rural use areas, it is obvious that a wide array of economic growth producing activity is allowable.

The LCRB expresses concern that the severely restrictive land use classifications have damaged development values on 87% of Adirondack private lands. Yet the existing plan allows for 500,000 new residences in the Park with 50,000 clustered around shorelines of ponds and lakes! This sharply contrasts with the current 60-70,000 permanent and seasonal residences. The Adirondack Council contends that in almost any town in the Park if you tell the local populace how many new residences can be built legally under APA guidelines they will be appalled. For a specific instance of this see Appendix A. On surveys taken around the Park residents have generally commented they like the character of the community and/or town in which they live and would not like to see more than a minor-to-moderate level of growth. This is more than provided for under the plan. The truth is that many an individual wants to see growth regulated but does not like restrictions placed upon his or her own land.

"LCRB Recommendation No. 3

The Adirondack Park Agency’s jurisdiction should be reconsidered. Projects involving wetlands, high peaks, and other critical environmental elements are of legitimate concern to all and warrant the state’s review. Other small-scale construction and local projects should not command the state agency’s priority attention, as it presently does and should be released to local governments under appropriate guidelines. The ‘regional projects’ lists, set forth under Section 810 of the APA law, should be amended accordingly.”

It is ironic that this recommendation comes from a body that has labored to thwart efforts of local governments within the Adirondack Park to develop local plans under appropriate APA guidelines. The APA law provides for a two-tiered system whereby local governments that express the willingness and have the competence, and gain acceptance of their local plan by APA, can have small-scale construction and local projects under their jurisdiction, if they also adopt the plan locally. It is obvious to anyone who reviews the Law that “B” level projects, or those projects that have lesser potential for Park-wide impact than “A” projects, come under the jurisdiction of local governments that have an APA-approved local land use plan (that includes at a minimum zoning regulations, subdivision regulations, and a sanitary code).

Many municipalities have worked diligently at considerable expense, with the state, to develop plans. However, in the final stages many of them fail to adopt the ordinances because opponents of APA have turned town meetings held to consider adoption of local plans into anti-APA rallies, in which even people who might support such adoption are often intimidated. See Appendix B for a specific example.

Historically, the Adirondack Park has not developed by leaps and bounds. Most large scale developers and speculators have been frightened away by APA regulations and guidelines because they cannot make the ‘killing’ here that they can elsewhere. The threat is not from large-scale developments. Large scale development is closely scrutinized. It is easier to pass off small scale development as inconsequential. In the aggregate, small scale development that compromises shoreline restrictions, critical environmental areas, or intensity guidelines, can prove disastrous in the long term. And as we have said, local governments can, for the most part, have jurisdiction over the small subdivisions if they elect to qualify.

There is no proof that many project sponsors continue to be frustrated by the APA. A special subcommittee of the Adirondack Mountain Club is objectively reviewing APA’s record in the processing of project applications. Their review has included an audit of project review files in both the Park Agency’s and Review Board’s offices. So far the committee has found only a few cases where the processing of projects has been unnecessarily held up and rarely has this been the fault of the Agency.

"LCRB Recommendation No. 4

An economic impact statement should be a balanced part of all staff recommendations concerning projects, variances and map amendment requests and the Agency members’ decisions thereon. An apportionment of staff positions and budgeting should reflect this essential balance.”

The Adirondack Council agrees that economic considerations regarding major projects should be an integral part of the Agency’s project review activities. It is imperative, for example, that negative as well as positive economic impacts are evaluated both in the short and long term. The Council submits that many projects that offer positive economic impacts in the short term are decidedly detrimental in the long run. A classic example of this is in single-family residence subdivisions. In the long run few are an asset to the local municipalities since it has been amply proven
that public service costs increase faster than property tax income. Open space earns money through tourist and recreation cash flow, and saves money by costing far less to service. (See Appendix C.)

It is true that APA has only one staff position requiring expertise in economics and that it has only one staff person involved in long-range Park planning. The APA should have adequate funding to hire another economist or two, along with the more needed extra staff for communications and Park planning.

It is important to remember that people trained in natural resources also study resource economics and concern themselves with benefit-cost ratios and other economic considerations. Further, it needs to be kept in mind that APA is definitely not an economic development agency. There is a fundamental difference between the Adirondack Park Agency, which is basically an environmental protection agency, and bodies like the Appalachian Regional Commission and the Tennessee Valley Authority, which are mainly concerned with multi-million dollar development projects. Such projects are not a primary mandate of the Park Agency. But concern for ecology and the environment is essential and economically beneficial in the long run.

"LGRB Recommendation No. 5

No state agency should be permitted to promulgate, without revision, rules and regulations that are inconsistent with the agency’s authority. It is even more important that the Adirondack Park Agency, whose statute is recognized by all as being the most complicated private land use law ever devised, have up-to-date and easily understood rules and regulations. The necessary revisions—incorporating the numerous statutory changes, case law, Agency policies, and conforming or conflicting provisions of other laws—must receive the immediate attention of the Agency, and public hearings held on the comprehensive revision."

The current rules and regulations are consistent with the Agency’s statutory authority, but could certainly be improved by updating them to incorporate changes that have occurred since they were originally promulgated. It shows ignorance to characterize the Adirondack Park Agency statute as “the most complicated private land use law ever devised.” In urban and suburban America, where most people live, there are many zoning codes and other land use laws more detailed and complex.

"Recommendation No. 6

Without delay, without excuses, and prohibiting extensions, the necessary staff and budget of an independent body (either the State Board of Equalization and Assessment—or a Special Joint Legislative Task Force) must evaluate the impact of the private land use law, and other related laws on land values and the local tax base in the Adirondacks.”

The Adirondack Council concurs that an evaluation is necessary. In their opinion it is not a disadvantage to have large state holdings on which an average of $2.00 per acre is paid in lieu of real property taxes. Studies have shown this is equal to or in excess of the taxes that private landowners pay on comparable property. Additionally, state lands require little or nothing in the way of services that local governments find very expensive to provide. Failure to institute the impact study is not the fault of the Adirondack Park Agency but is due to the lack of legislative funding or the necessary mandate to get the job done.

"LGRB Recommendation No. 7

The Adirondack Park Agency should provide the technical expertise to assist local communities in their planning efforts when requested to do so; funds should be made available to municipalities for professional planners selected by them to complete their local land use programs; and local governments should regain jurisdiction over elements of land use project review as they establish their capability to administer and enforce those elements (e.g., subdivision regulations, mobile home ordinances, etc.). This type of ‘phased approval’ would allow communities the opportunity to take one step at a time and thereby gain experience and public acceptance of these local land use program elements.”

The Park Agency already provides technical expertise to communities which seek it. Also, funds have been available to municipalities for professional planners. The Adirondack Park Agency statute provides that local governments regain jurisdiction over Class B project review when they adopt zoning regulations, subdivision regulations, and a sanitary code that comply with regional criteria in the law. This makes more sense than the ‘phased approval’ the LGRB is urging because the three elements will often need to be administered and enforced in concert. Class B projects are regional in nature. Because the impacts of such projects extend beyond local government jurisdictions, it would be inappropriate to relinquish Class B’s to governments whose ordinances do not follow acceptable regional criteria.

For an Adirondack town or village to adopt an APA-approved land use program will seem like a giant step, until local people better understand the benefits to them and their communities. Progress in such a controversial and emotional issue should be measured in halved decades and decades, not in months and years. Many municipal boards have not adopted APA-approved land use programs because their constituencies may not be ready for such a move, and because of incidents such as those documented in Appendix B. But they are getting closer, as indicated by the experiences of Hague and Indian Lake, and soon more towns with innovative leadership will adopt. Their residents will need to acknowledge the sobering fact that to preserve the rural open space character and to protect the Adirondack lands and waters that most people revere, some landowners will have to accept restrictions. The concept of asking taxpayers to share responsibility for conserving the Adirondack Park’s open space is still new, as it would be in any area that has not yet suffered gross environmental degradation. But because its time has come the Adirondack Park Agency will for a while have to shoulder controversy, emotionalism, and abuse. The Agency will continue to “bite the bullet” for the Park’s municipalities that do not see the dangers that lie ahead. Fortunately, the Agency was created just in time to prevent major environmental damage such as has occurred in hundreds of other areas that were loath to accept land use controls until it was too late.

The partnership role foreseen by the current statute is workable; it remains for the municipalities to muster up the political will to make it work. Admittedly, improvements can and should be made in the existing program and some suggestions for these are made in the conclusion to this paper.

The strongest argument against any dilution or delegation of Agency zoning powers is the fact that so far only 2 out of the 107 municipalities in the Adirondack Park have adopted local zoning ordinances approved by the Agency. The 79,000,000 citizens of the state have a major interest in maintaining open space in the Adirondack Park. The Park Agency is their agent in maintaining such open space. The state’s citizens do not want this responsibility turned over to a group whose interest in land use control is still so slight that less than 2 percent of its municipalities have adopted effective zoning ordinances.

The Agency and the statute clearly recognize a difference between regional planning and land use planning at the local level. Why else would the state spend hundreds of thousands of dollars and why would the Park Agency staff spend countless hours
CONCLUSION

Abolishing or emasculating the Adirondack Park Agency, as the Local Government Review Board recommends, is not the way to save or help the Adirondack Park and its people. The proper blueprint already exists in the Adirondack Park Agency Act. It provides local governments the opportunity, with state financial aid and technical assistance, to develop a local land use program meeting statutory criteria and to regain exclusive jurisdiction over most new land use and development within their municipal boundaries. These include certain land uses and developments that have been found by the Legislature to be of regional significance, the Class B Regional projects. The right to transfer regional project jurisdiction from the state to the local level is based on confidence that local units will take into account land use implications that reach beyond the boundary of the municipality. When a locality decides to move forward with an approachable local land use program, it will be undertaking a huge responsibility. This has been and should remain the intent of the law. Such a program means that the locality is willing to enforce, within its jurisdiction, state interest in the Park as a whole. In the interim, before more communities are ready to shoulder such a responsibility, the Park Agency must man the breach.

Instead of emasculation of the Adirondack Park Agency Act, what is needed are positive steps to supplement it. There are several things that can help landowners directly and better prepare them to accept the inevitable restrictions necessary to preserve the Park’s rural open space character and its lands and waters. With state legislators, state agencies, local leaders, and local people working together, the following can and should be achieved:

— Real property tax reform; included should be reform of land assessment and taxation to relate it to the classification of land by the Adirondack Park Land Use and Development Plan. Substantial erosion of the tax base should be offset by state aid.

— Visitor Centers for the Park’s interior that double as environmental and cultural centers for both visitors and Park residents.

— Implementation of the State Land Master Plan to insure the broad array of outdoor recreational opportunities for residents and visitors, including the purest possible wilderness, where the forces of nature are paramount and the imprint of man’s work is substantially unnoticeable.

— A continuing acquisition program that includes the purchase of and acceptance of gifts of open space or conservation easements on land whose open space is particularly key to the Park’s character. Legislation is needed to enable the acquisition of easements in gross and to provide that the real estate tax assessment of the fee ownership will be diminished by the value of what the landowner relinquishes. If the state owns the easement it should aid the local government by making payments in lieu of taxes, as it does on Forest Preserve lands held in fee, equal to the tax revenue lost by the diminished tax assessment.

— Further incentives to encourage compatible economic development.

— Additional state aid to the Park’s tourist industry since this is an area probably more dependent on tourism than any other areas of the state.

— State aid and encouragement to all school districts of the state to include environmental education into existing school curricula. As the Adirondack Park Program will be followed in other rural areas of the state, the state’s citizens need a better understanding of natural, cultural and human resources and the alternatives for the management of these resources. Before you can ask people to preserve or protect something you must enable them to understand it. The lack of understanding has been a problem in the Adirondacks.

— Better communication and information programs for adults. Everyone affected by or contributing to the state’s Adirondack programs should be informed as to what is being done, why it is being done, and how it is being done. Included might be industry-keyed summaries of pertinent sections of the Park Agency Act and a “plain language” version of Article 27. Additionally, there should be two-way communication and information exchange between the state and interested people.

The Adirondack Park Agency issue has of necessity been a painful one. Pain suffered now will preclude greater pain when pressures on the Park’s people and resources grow. Hard decisions have been and will continue to be made. The old prejudices of natives versus newcomers, small landowners versus large, and old ideas versus new will be overcome. Asking taxpayers to share responsibility for conserving the Adirondack Park’s open space is a new idea. But its time has come in the Adirondacks and other rural areas. In the words of a town planner who could be from “Anytown, U.S.A.”:

It’s taken us two hundred years to create the problems we’re trying to solve now. Two hundred years of bullying ahead, rippin up the land, grabbin off a country. We can’t expect things to change overnight. But at least we’re looking ahead now and the young people are looking ahead with us. Things haven’t fallen apart yet; I don’t think the kids are going to let them.

APPENDIX A

In July of 1976 a Town of Essex Planning Board member made the following comments in a letter to the editor of the Lake Placid News:

I like to ask people, “Where in Essex would you put a hundred new houses?” And nobody seems to know. They say we don’t need them, and that a hundred is too many. But then, when you tell them that the APA (which is obviously out to stop all growth) allows us to build two thousand new houses... they are horrified.

APPENDIX B

In February 1977 the Town Justice of Wilmington wrote the following in a letter to the editor of the Lake Placid News:

Many personal letters, phone calls, letters to the editor have resulted since my confrontation with the Adirondack Defense League concerning the tactics used in the Wambat amicus curiae situation during one of the Wilmington Town Board meetings. The League, at that time, catalogued me as an Adirondack Park Agency supporter. The fact of the matter is, a few months ago I made a $25 donation to their publication “The Defender” in the interest of freedom of the press and the
right to express diverse opinions. However, my donation of $25 did not include my allegiance to a group who has long since proven their use of unethical tactics such as

1. The League, represented by Mr. Cassier, wrote a letter to Wilmington Supervisor, Donal DeMacy, of which I received a copy, requesting the removal of our Planning Board Chairman, Thomas Randall. The Planning Board, under Mr. Randall's leadership, has spent six years engineering a Town Plan with the assistance of professionals and have dedicated many hours of their time and efforts without pay toward this project. This plan has cost the taxpayers approximately $15,000 and lays a solid foundation for controlled and planned growth for Wilmington for years to come. It is quite obvious that the League and our Supervisor are out to delay Town Board acceptance of the plan with its eventual destruction in mind.

2. The methods used in bringing about the Wambat amicus curiae resolution and demanding its passage in Wilmington is one more example of their interference in local government. We were told that Gerald Edwards was a representative of the Essex County Development Board, when all of the time he was a developer and a League vice president whose only interest at our Town Board meeting was to gain Wilmington's vote for passage of the resolution. To my knowledge, no one except our Supervisor knew of his connection with the League at that time. I might add here that from my best legal advice, the Wambat amicus curiae resolution still lies tabled in the Town of Wilmington and was never legally brought out for passage.

3. I also question the ethics of the League attending town board meetings all over the Adirondacks whenever land use plans are being discussed and creating dissension in communities whose citizens have a right to manage their own affairs and to think for themselves...

APPENDIX C

Studies are accumulating that demonstrate that most new residential developments mean taxpayers must dig even deeper into their pockets to pay school costs and municipal services. For example, the Towns of Wayland, Massachusetts, and Palo Alto, California, both hired analysts to compare the overall net costs to their towns of acreage developed in new homes vs. that same acreage acquired for public recreation and open space. The results were clearly in favor of maintaining the open space. Aesthetics aside, the economics of conservation can make more dollars and sense than the economics of growth.

In one study the cost of providing schooling to the new residents' children exceeded the additional tax revenues. Twenty-five houses were erected at a tax assessment valuation of $654,000.00, and an average assessed valuation per home of $34,160.00. Taxes paid by these residents equaled $31,921.00. From these 25 houses came 35 school children. With a cost per pupil of $992.69 per year, the cost to the town for a year of school for those children was approximately $34,744.00.

Headaches can also beset a town with seasonal home subdivisions. The claims of second-home builders notwithstanding, second-home development cannot automatically be expected to build a sound economy for local municipalities. In general, the vacation-home economy is characterized by a host of drawbacks: outside ownership, over-extended commercial investment, low productivity, low wages, irregular employment, and inflated local prices (according to a Vermont Natural Resources Council study on the subject).

Some New Hampshire communities have been relying on seasonal homes owned by non-residents to cover local school costs that aren't met by the year-round homes. But the "build-more-to-pay-for more" argument is no answer. To do so is a self-defeating trap. More housing of any type is accompanied by demands on village or town services and upon the capacity of the land to supply water and handle sewage disposal. And there's no guarantee that second homes won't turn into first homes with school age children. The harm second home developers can do with their road building and improvements is to prematurely commit land to unneeded development.

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