

# **“Adirondack Wild” motion designed to delay, derail APA permit decision**

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TUPPER LAKE - The opponents of the Adirondack Club and Resort are ramping up their last minute efforts to stop the project this week.

Dan Plumley and David Gibson, who have been against the project from the very beginning, joined forces in recent weeks with Bob Glennon, a very knowledgeable guy when it comes to the Adirondack Park Agency and its convoluted and very gray set of rules. It is our understanding that Mr. Glennon was one of the architects of those deliberately vague regulations. Plumley and Gibson have been seen chatting and laughing with Glennon frequently at the recent APA meetings in Ray Brook.

Mr. Glennon, a former staff attorney and later executive director of the Adirondack Park Agency, retired in September as head of the state attorney general's Plattsburgh office. In an exit interview with several north country dailies he was quoted assaying that in retirement he looks forward to reentering what he called “the Adirondack wars.”

His comment made us shudder, and harkened us back to a dark time in the 1970s and 1980s when the agency was squarely in the hands of preservationist zealots. Glennon at that time routinely angered many APA opponents for his extreme, unbending positions on issues. He eventually became the poster boy of the preservationists, before his removal by Governor Pataki in the mid-1990s.

Some of our readers will remember that Plumley and Gibson used to operate “The Association for the Protection of the Adirondacks” out of Niskayuna, N.Y. (outside the park). They later accepted the invitation of the Residents Committee to Protect the Adirondacks to consolidate into a combined preservationist group renamed “Protect the Adirondacks.” It was only a couple of weeks after that announcement, however, that they were apparently tossed out by the new “Protect” leaders.

In the face of that they formed their own organization that they called "Adirondack Wild," which is also probably based outside the park, somewhere in downstate suburbia.

Plumley and Gibson on their own are lightweights. But teamed up with Bob Glennon they become a formidable force as they attempt to derail an APA board decision this month on the proposed development.

The motion they filed this week to send the Adirondack Club and Resort project back to the adjudicatory hearing process was well prepared and obviously the work of the experienced attorney.

We suspect it is designed to give preservationist-leaning commissioners like Cecil Wray and Dick Booth the ammunition they need to convince their colleagues to postpone the decision they are legally required to give the applicants.

The motion should be dismissed, however, for what it is: a last ditch effort by the opponents to kill the project.

If the motion is denied by the APA board - and it should be - it presents an opportunity for its crafters to sue the APA. We suspect that's part of its purpose too.

The application that was filed by the development partners over seven years ago was deemed by the APA staff to be complete several years after it was submitted. In short, the staff was happy with the volumes of information from the developers and their planners and their lawyers that it contained. It filled an entire corner of our local library where it was displayed for many months.

In an effort to cover their backsides, the board of APA commissioners in 2007 sent the review to adjudicatory hearing, requesting the dissection of 10 complex issues (two were later added by the hearing judge). The process, after a non-productive mediation sidebar that took two years, eventually culminated this past year with 20 days of testimony by parties and their expert witnesses. It cost the developers hundreds of thousands of dollars and produced a final record so voluminous and detailed that it likely fills an entire room at the agency.

The Adirondack Wild filers of the motion are zeroing in on two items to delay the permit decision.

One is the absence of a comprehensive wildlife study in the application materials. During the adjudicatory hearing testimony from

the APA staff, it was never clear that the developers were asked to do that by the staff.

Would they have liked a comprehensive assessment of wildlife present and any effects on their habitat a development might produce? Of course they would have, staff members admitted under cross-examination. But did they ask for it?

The answer was no.

There were a number of instances during the delivery of testimony where it was acknowledged that the APA staff often received more information from the ACR developers than they requested.

There will likely be a condition in any forthcoming APA permit that the developers will have to study any effects of wildlife in areas eyed for development in the years ahead. Construction steps can be taken to mitigate injury to plants and animals that already live there, as the project will be monitored by APA-approved environmental overseers.

Another contention of the Adirondack Wild motion was the applicant's apparent failure to examine other design alternatives.

The developers - Michael Foxman, Tom Lawson and their partners have a vision for the development and a financial strategy to accomplish it. Central to that strategy is a plan to develop farm-sized, secluded lots deep in the local woods and to sell them to wealthy people on which to build their great camps. The large amount of money those sales are expected to generate will help finance the creation of the public system of roads and utilities on Mt. Morris where typical single-family ski dwellings will be built.

The great camp lot sales are also designed to fund the extensive multi-million dollar rebuilding of Big Tupper Ski Area.

That was the plan that was offered and that is the plan the APA commissioners must weigh. Why should the examination of less attractive alternatives that may not financially work be a condition of permit?

The developers have already removed a number of controversial elements of their plan such as several upper elevation ski in-ski out developments and the Orvis Shooting School. Those curtailments should be considered as alternatives from the original plan, if alternatives are so necessary.

When the APA commissioners ordered the adjudicatory hearings in

2007 what they bound themselves to - either wittingly or unwittingly - was a reliance on only the information in the record to make their permit decision. The time has come for that.

The APA staff that has been working with the partners for over seven years has prepared a draft order for the permit, with many conditions attached.

The refinement of those conditions to everyone's liking and a positive vote on the application is what must come at January's meeting. The APA commissioners owe the process and the very patient applicants that much.