

## Did APA procedures and regulations fall short during Big Tupper review?

Next month, the Adirondack Park Agency will bring to a close its seven-year review of the Big Tupper resort proposed for Tupper Lake. Developers hope to build more than 700 luxury homes and condos, as well as a new ski lodge, equestrian center and marina. It's the biggest single project the APA has ever reviewed.

But as the process grinds to a finish, a growing number of critics say fundamental questions about the resort's environmental impacts still haven't been answered. As Brian Mann reports, even some members of the APA commission are asking whether state policies and regulations are adequate to handle such a massive and complex project.

The Adirondack Club and Resort was first proposed in 2004 and in the years since, there've been town hall meetings, exhaustive hearings before a judge, lengthy negotiations and field visits by state scientists and officials. New York state has spent millions of dollars kicking the tires — which is why it's so shocking to hear testimony like this from Park Agency project analyst Ed Snizek. "Most everyone who's read the record would agree that there was really no wildlife survey done on it. Consequently, the lack of information really makes it difficult to assess possible habitat fragmentation and potential impacts," Snizek said.

During testimony last week, Snizek acknowledged repeatedly that the APA struggled to gather even the most basic wildlife data that it wanted from the developers. State officials also struggled to deal with testimony from scientists during hearings last summer that focused on how the resort might fragment the forest, disrupting habitat. "Again, very important concepts," Snizek elaborated. "But unfortunately, it didn't come early enough and as a result we're at this stage now with the project."

Park Agency staff say they have developed a draft permit that includes adequate environmental safeguards, but at last week's meeting some commissioners were clearly skeptical. "I think I have to say for the record that that statement that there is no indication of threatened or endangered species [on the property] troubles me."

Judy Drabicki represents the Department of Environmental Conservation on the APA board. She said Friday that it's still unclear whether the Park Agency knows enough about wildlife on the resort property to say with any confidence that adequate safeguards are in place. "That's a pretty big statement, that it has been designed to avoid or minimize impacts when the first part of your whole discussion was about the fact that there was never a full assessment of the wildlife," Drabicki said.

That concern was echoed by commissioner Dick Booth. "This has been bothering me now for quite a while that some of the basics that one would expect for projects of this size were not undertaken when they should have been undertaken," said Booth.

Some critics say the APA should never have accepted that the permit application was complete without wildlife surveys being completed. But during last week's session, APA staff argued that there aren't clear guidelines for when wildlife surveys should be done or what those surveys should entail. According to state officials, the Agency has never required a full wildlife survey for any project before.

Sherman Craig, an APA board member from Wanakena, said that lack of clear guidance and precedent, made it hard for APA staff to demand better science from the developers. "When I look at the concerns you have," Craig said, "and I can hear in your voice the concern about the scientific evidence has been expressed — I think you're between a rock and a hard spot."

According to Craig, review of this project has revealed gaps in the APA's procedures that need to be sorted out before the next big project comes along. "I think there are four or five areas that we have learned about and that different procedures and regulations can be discussed after this project has come to some conclusion." Craig argued that updating the APA's procedures should happen later, not in the middle of this permit review. That view was echoed by Agency chairwoman Lani Ulrich. "I am interested in learning moments in this process as we go forward, the potential for future better practices," said Ulrich.

But some critics say the APA should work harder to gather scientific data and address concerns about forest fragmentation before the Adirondack Club and Resort permit is granted. Dan Plumley is with a group called Adirondack Wild. "It's completely inappropriate to try and condition a project to approvability without knowing what the resource provides," he said.

Plumley says he worries that the lack of good science on this project will set a standard for future projects. "If the Agency can't do it for this project, when will they ever do it? This is the project that requires that forethought."

But other environmental activists say shortcomings in state policies and regulations should be addressed later, after this controversial and politically charged process is over. Brian Houseal heads the Adirondack Council. "It's important to look at lessons learned after this decision is made, because there really isn't adequate definition of a wildlife assessment...but within the existing regulations, we think the [APA] hearing staff has done a pretty good job."

One question is whether shortcomings in the review process will leave the APA's decision vulnerable to a legal challenge. Dan Plumley with Adirondack Wild says it's too early to say whether this long, muddled process will wind up in the courts.

"I think the parties involved are not going to give up any tool in their quiver, depending on the outcome," Plumley said.

The project's developers, Tom Lawson and Michael Foxman, declined to be interviewed for this story.