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Developers look to loosen resort conditions

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TUPPER LAKE - Developers who want to build the Adirondack Club and Resort are looking to loosen some conditions drafted by state Adirondack Park Agency staffers early this spring.

The APA drew up a draft permit with 88 conditions and submitted it in early March to the various parties involved in an adjudicatory hearing on the project.

Before the last group of hearing sessions, which wrapped up last Friday afternoon, Administrative Law Judge Daniel P. O'Connell had parties submit comments on how they'd like to see the conditions change in the final permit, which could be approved in about four or five months by the APA board.

In its comments, development group Preserve Associates looks for leeway on some things like deed restrictions, the proposed phasing plan and snowmaking.

It asks to change the APA's suggested deed restrictions completely, from a very specific two paragraphs that lay out exactly what can happen on project lots. The group wants to instead include a paragraph that says any lands in the project site are subject to the APA permit.

Developers want to be allowed to build three smaller guest houses on large "great camp" lots, rather than one bigger guest house, in addition to the main house.

In the APA's draft conditions, staffers laid out a series of steps that would need to be completed in five years or the project would not be considered "in existence." Preserve Associates wants to remove a few of those things, including the reconstruction of Ski Tow Road (the road that takes people to the Big Tupper Ski Area), building and making operational a new potable water storage tank, and replacing one of the ski slope's chairlifts.

The group also adds a stipulation that would push back the five-year limit if a lawsuit is filed challenging the APA permit or potential local planning board approval. The five years wouldn't begin until there is a final, binding order and any appeals are resolved.

There are also a number of small changes that would give developers more leeway, like excluding chimneys from the height limit on some buildings and not including uncovered porches in a building's footprint measurement.

Preserve Associates also attempts to set a number of deadlines for the APA in future approvals for various parts of the project.

In one section, the group asks for the APA to issue a letter that approves groundwork to begin within 30 days of developers submitting a report to the APA showing that all the infrastructure is in place and compliant with the conditions.

Throughout their comments, developers also request language changes that alter who would have to deal with issues that may come up. In several places, they request a change from the wording "responsible parties" to "a responsible party," and in another spot, they request a change from "owners of the project site" to "the permittee."

In one condition that requires developers to employ local workers to whatever extent possible, they change "responsible parties" to "the project sponsor, its successors or assigns and its agents, contractors or other persons undertaking any portion of the project on their behalf."

They also make a number of small changes to the wording of the conditions. For example, when the conditions talk about "deed restrictions," Preserve Associates wants them instead called "deed language."

In addition to trying to loosen up some language, however, Preserve Associates also added a few new conditions. One lays out biological inventories that would be performed on the building envelopes of the eight large great camp lots proposed for the project to look for amphibian and bird species.

Another lays out how forestry management plans should be developed for the large great camp lots. Yet another explains the developers' plans to move the 28 remaining principal building opportunities under the APA's Overall Intensity Guidelines to one area of open space on the project site.

Other comments

Other parties argue that the conditions aren't strict enough and need to be more specific and include ways to enforce in a uniform way across various future property owners.

The Adirondack Council repeatedly argues in its statement that there isn't enough information to comment on the impact to wildlife on the project site. It says the same about the project's water and wastewater treatment plans, noting that the state Department of Environmental Conservation still has a notice of incomplete permit application issued for the project.

The Council does make some specific comments, though. It argues that evidence submitted in the hearing shows that the project should be phased in a way that requires it to be built starting from the center (the ski area) and then work its way to the great camp lots on the outskirts of the project.

The Council asks the APA to require that developers post a performance bond to insure the total cost of all proposed roads, utilities and other infrastructure, which it argues would protect the local municipalities.

The Council also wants to see a wildlife assessment completed before a permit is issued.

Adjoining property owner Kevin Jones makes a number of requests that ensure developers would pay for things like new equipment for the fire department and the cost of maintenance of the roads to be dedicated to the town until the project reaches its full build-out.

Adirondack Wild argues in its comments that the APA can't make up for holes in the project's application through conditions.

"APA should not condition a completely defective and deficient permit application," the group's comments read. "Conditions are shooting in the dark when so much basic information is missing within the application. Too many of the draft conditions attempt to mitigate project impacts which APA can only guess at because of a basic lack of study and assessment and functional analysis of natural resource, interacting ecosystems and alternative designs for development on the site."

The group then goes on to suggest a few specific alterations to the proposed conditions, including ones that would lay out specifics about enforcement.

Adjoining property owners Brenda and Dennis Zicha suggest changing some wording about potential enforcement measures from the more tentative "may" to a definite "will."

The Zichas, along with other parties, also look to increase the amount of work to be done before the project is considered in existence. They also request the height restrictions on great camp main houses and guest houses be shortened.

People will be allowed to comment more in their closing briefs.