



October 19, 2010

Terry Martino, Executive Director
Adirondack Park Agency
P.O. Box 99
Ray Brook, New York 12977

RE: **Petition Request for Party Status in the Matter of Preserve Associates,
Adirondack Club and Resort, APA. Project No. 2005-100**

Dear Terry:

On behalf of Adirondack Wild: Friends of the Forest Preserve, we respectfully file this petition and request your consideration for intervener party status to the adjudicatory hearing for the matter of Preserve Associates, the proposed Adirondack Club and Resort in Tupper Lake, APA Project No. 2005-100.

We file this petition in recognition of the Adirondack Park Agency's administrative procedures for adjudicatory hearings and 9 NYCRR 580.7 (g) in advance of the evidentiary portion of the Adjudicatory Hearing for APA Project No. 2005-100 and pursuant to the following facts:

- (1) Adirondack Wild was newly reconstituted this summer. Given the many demands on a start-up organization, we have not had the time before now to file a petition for party status.
- (2) As you may be aware, both Dan Plumley and Dave Gibson were actively part of the pre-hearing and mediation phases of the project from 2007-2009 as a result of party status while employed by the Association for the Protection of the Adirondacks. We have close involvement with the history and proceedings of the project from its inception to the present.
- (3) We have a lengthy record of involvement and experience in this and other matters that have come before the APA since 1987. We believe our participation would significantly contribute to an informed decision by the APA on the hearing record.
- (4) The mission of Adirondack Wild is described below, with our charter attached.

In support of this petition, we respectfully acknowledge the following:

1. Petitioner's Demonstration that Adirondack Wild has the Capacity in Administrative Proceedings and to Supply Information or Expertise Relating to the Issues to Be Considered:

While Adirondack Wild is a newly re-established 501 (c) 3 tax exempt non-profit conservation organization, its staff partners Dave Gibson and Dan Plumley have had extensive public involvement with the proposed Adirondack Club and Resort since November of 2004 as employees of the Association for the Protection of the Adirondacks.

Dan Plumley and Dave Gibson provided APA with extensive comment on numerous occasions from the 2004-2009 as the Agency deliberated on conceptual review, application completeness, scope of public hearing, pre-hearing and mediation phases. We also spoke during all public hearings, and in response to the Agency's specific public call for issue identification for a hearing in 2007, resulting in the 10 primary hearing issues now pending for adjudication. Moreover, Plumley and Gibson have both been directly involved in community discussions in Tupper Lake on the proposed Adirondack Club and Resort project, conservation design discussions, ski resort development impacts, costs and benefits, as well as impacts to wild land resources and ecological integrity from backcountry development and fragmentation, among other pertinent matters of the project.

We have been serving as partners in Adirondack Wild since July 1, 2010 and have kept abreast of the matters pertaining to the proposed adjudicatory hearing and are fully prepared to participate in the pre-hearing discussions, discovery and hearing procedures, as necessary and appropriate.

The mission of Adirondack Wild: Friends of the Forest Preserve is to advance New York's "Forever Wild" legacy and Forest Preserve policies, in the Adirondack and Catskill Parks, and promote public and private land stewardship that is consistent with wild land values through education, advocacy and research. Adirondack Wild works in support of an extended network of public and private lands which safeguard wild places, wildlife, old growth forests, and entire watersheds harboring many essential benefits to the park's ecological health, environmental sustainability, economy and quality of life.

As such, the nature of the Adirondack Club and Resort proposal poses significant questions of impact, benefit and Park land use policy which the members of Adirondack Wild have a direct interest in, and our supporters and staff have factual perspective and expertise in directly associated with the history and proceedings of the project from its inception to the present.

2. Petitioner's Statement as to Prior Participation in Adirondack Park Agency Legal and Administrative Proceedings.

Adirondack Wild: Friends of the Forest Preserve (AWFFP), while newly reconstituted this summer, has already:

- participated in monthly APA meetings
- submitted testimony in Agency land use classification hearings, and in public hearings on unit management planning for the Jessup River Wild Forest and the Moose River Plains Wild Forest
- submitted testimony regarding the reclassification and unit management plan for the St. Regis Canoe and Hurricane Mountain Primitive areas
- commented on the APA-DEC Memorandum of Understanding concerning Conservation Easements
- commented on private land projects involving backcountry and upland forest lands, shoreline, watershed and wild life resources of a similar nature to the ACR Project, such as APA Project No. 2010-0070, development project on Utowana Lake in Resource Management.

3. Petitioner's Statement on Adirondack Wild's Relationship to the Matters Involved, the Nature of Evidence or Argument the Petition Seeks to Present and Other Matters Adirondack Wild Deems Relevant:

Adirondack Wild has a clear interest in protecting the not only the core wildlands of the Forest Preserve, but also the overall open space character of the Park where private forests remain unfragmented. Forestry, forest resource, wildlife habitat and open space recreation are the objectives for which Resource Management private land classification was established in law, yet this proposal makes all of these far more difficult to achieve by spreading the zones of development impact to every corner of the ownership. The impacts of new roads, driveways, outbuildings, pets, utilities all overlap, instead of being concentrated. There is no creative design that would achieve both real estate, skiing, and public conservation, wildlife conservation, and recreational goals. There is no permanent, legally binding land conservation anywhere in the proposal, while forestry and public recreation plans have been eliminated. Alternative development designs have been given the most scantest attention to date, but mostly been rejected out of hand as infeasible and failing to meet the applicant's marketing and sales objectives.

Therefore, Adirondack Wild will focus its efforts at the hearing on Hearing issue 1. We believe that the current proposal would not adequately protect forest resource, habitat, wild land values and other natural resource considerations. We believe the Great Camp lots are not well planned or well designed to mitigate these impacts. We will focus our energies at the hearing on why the current proposal fragments the landscape unnecessarily, violates the purposes, policies and objectives of Resource Management under the APA Act, and how alternative conservation design could be employed. Specifically, we cite the following in support of this petition:

- Adirondack Wild believes the current final application fails to provide any alternative project design scenarios other than the developer's proposed maximum build-out plan. The current proposed plan insures the breakup and fragmentation of the Park's Resource Management lands.

The APA Land Use and Development Plan states that:

“Many resource management areas are characterized by substantial acreages of one or more of the following: shallow soils, sever slopes, elevations of over twenty-five hundred feet, flood plains, proximity to designated or proposed wild or scenic rivers, wetlands, critical wildlife habitats or habitats of rare and endangered plant and animal species.”

Furthermore, the act states that:

“The purposes and objectives of Resource Management areas are quite clearly devoted to open space protection. Resource Management areas are established in statute as lands “where the need to protect, manage and enhance forest, agricultural, recreational and open space resources is of paramount importance because of overriding natural resource and public considerations.”

Of paramount importance is the fact that the APA Act establishes that Resource Management areas will allow for residential use only as a secondary use, but the primary use under the law is for actual resource management, forestry, recreation or open space protection, etc. And development, where it is to occur, should take place only *“on substantial acreages or in small clusters on carefully selected and well designed sites.”*

- Adirondack Wild finds the application materials wholly deficient in regards to presenting any conservation design that might mitigate impacts to wildlife habitat through true clustering of the Great Camp lots, for example. The current design will spread development across many miles of forest lands and with its roads, houses, increased vehicular traffic, house pets, noise, lighting and other amenity impacts will likely serve to impact sensitive bird and mammal species. Moreover, the application materials to date fail to assess at all nearby impacts to adjacent lands, wetlands and surface water habitats.

The ACR proposal fails to heed fundamental principles of conservation design, which Adirondack Wild would seek to apply in an adjudicatory public hearing, such as:

1. Maintain through conservation easement or fee purchase large blocks of interior forest habitat uninterrupted by roads, driveways, home, utilities, etc. ACR has proposed no conservation easement anywhere.
2. Cluster homes close together, close enough so that their zones of influence or ecological impacts overlap. Do this around the base of Mt. Morris. Instead, ACR spreads housing out to the east and north, vastly extending the zones of influence.
3. Reduce new road construction. Instead, at least 12 miles of new roads will be needed, not counting long driveways.
4. Understand and protect rare species, critical habitats, or important ecological communities. In five years, there has been no professional ecological inventory of these lands.

Adirondack Wild is very concerned about the overall impact of the proposed intensively developed project on wildlife and their habitats. The application provides only “boilerplate” information on species and the project’s proposed actions for reducing impacts to wildlife. As the protection of wildlife habitat is a primary purpose of Resource Management lands (where development is secondary), our testimony will show the need to significantly strengthen wildlife habitat protections within the project design features, restrictions and covenants.

The applicant dismisses the need for alternative conservation designs for the project citing the limitations of Adirondack specific research on so-called exurban development impacts. Yet decades of research make very clear a primary causal factor in the decline of wildlife species worldwide, and especially bird species, is habitat change and loss. With the conservation restrictions so limited and malleable towards landowner’s interests across much of the resource management lands, how can the developer claim the project will have no undue adverse impact on wildlife and bird species?

Adirondack Wild will critically compare the final project design with conservation design alternatives that make the protection of open space resources the highest priority.

- In addition, Adirondack Wild asserts that adjudication should consider the impacts of the project on Forest Preserve resources, lakes and waterways. In the recent case of the adjudicatory hearing decision on the similarly- scaled Bellayre Resort in the Catskills, the Law Judge deemed the consideration of impacts on Forest Preserve mandatory and important. With the applicant’s assertion of such tremendous growth in visitor user days and the clear expansion of pressure on state lands, resources, etc. there must be diligent consideration of carrying capacity or recreational impacts on regional Forest Preserve and trails, Tupper Lake, Raquette River, Lake Simond and outlying lakes and ponds such as Bog River Flow, for example.
- In addition, we have serious concerns about all of the potential undue adverse impacts of this project on water quality, including the proposed dual community wastewater treatment facilities that could unduly harm Cranberry Pond, Lake Simond, small streams, possibly Tupper Lake and class 1 wetlands due to chemically treated effluent loading, pharmaceuticals in waste water, stormwater run-off, erosion/sedimentation.
- Finally, we have great concerns about induced growth impacts, cumulative impacts, housing impacts and fiscal impacts to the Village of Tupper Lake, service providers, and taxing jurisdictions.

4. Petitioner’s Demonstration that Adirondack Wild has a Material Social, Economic and Environmental Interest in the ACR Project No. 2005-100 which is likely to be affected by the Agency’s Decision on the Project:

Adirondack Wild: Friends of the Forest Preserve is focused on safeguarding and extending wild lands in the Adirondack Park, including but not limited to the Forest Preserve, and in promoting wild land values on private lands and state-held conservation easements. Preserve Associates and the ACR threaten the values we hold dear by backcountry development and fragmentation of several thousand acres of Resource Management for 36 Great Camp Lots. The protection of wildlife habitat, the maintenance of ecological connectivity between landscapes, the ability of the watersheds involved to function in a healthy manner are all threatened by this spreading development pattern on both sides of Lake Simond and around Moody Pond. Connecting forests and habitats on adjoining conservation ownerships such as Follensby Pond are threatened by the ACR as well. The lands of Oval Wood Dish that ACR plans to develop into Great Camps are critical to the wildlife, ecological integrity and connecting of this larger Park landscape and that threat directly intersects with our mission and compels Adirondack Wild to become actively involved.

Those are our principal environmental interests which will be affected by the APA decision on the project. We also represent the interests of our donors and contributing members who share in our Park-wide mission and goals, but also in the threat posed by the ACR. One of our members owns lands in Resource Management elsewhere in the Park, and his interests in conserving those lands by upholding the purposes, policies and objectives of Resource Management will be effected by the outcomes of this hearing.

At least ten other partners/members/board members/advisors of Adirondack Wild own camps in the Adirondacks, one of these in Franklin County north of the project site. Two of our principal partners are full-time Park residents. In short, we have very significant interests of full and part-time landowners to represent in the hearing, including several who live near the project site.

Thank you for your consideration of our petition for intervener party status and these clearly important issues for adjudication in the matter of the proposed Adirondack Club and Resort.

Sincerely,

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