

 <p>Adirondack parkagency</p> <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p>	<p>APA Project Permit 2010-218</p>
<p>In the Matter of the Application of</p> <p>ARISE of NORTHERN NY, INC and BIG TUPPER, LLC</p> <p>for a permit pursuant to §809 of the Adirondack Park Agency Act</p>	<p>Date Issued: November 19, 2010</p> <p>To the County Clerk: This permit must be recorded on or before January 17, 2011. Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none">1. Big Tupper, LLC2. ARISE of Northern NY, Inc.

SUMMARY AND AUTHORIZATION

ARISE of Northern NY, Inc. (ARISE) and Big Tupper, LLC are granted a permit, on conditions, authorizing the temporary re-use of an existing ski facility in an area classified Resource Management and Moderate Intensity Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Tupper Lake, Franklin County.

This project may not be undertaken, until this permit is recorded in the Franklin County Clerk's Office. This permit shall expire unless so recorded on or before January 17, 2011 in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

This permit for temporary re-use shall expire on September 14, 2011.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local, including but-not-limited-to all necessary safety inspections and New York State Department of Labor inspections and load tests.

AGENCY JURISDICTION

The project is subject to Agency jurisdiction pursuant to Condition 4 of Permit 2009-224. The project is also subject to Agency jurisdiction since it is a recommencement of a ski center located in Resource Management and Moderate Intensity Use land use areas, use of which has been discontinued for more than 5 consecutive years. The

recommencement of the Lodge, Chair Two, Rope tow, and other base area activities was temporarily authorized for the 2009-2010 ski season. These activities and the reopening of another chair lift (Chair 3) and associated terrain is proposed again for the 2010-2011 season. Recommencement of the discontinued use is a Class A regional project requiring an Agency permit pursuant to §§810(1)(b)(7) and (1)(e)(6) of the Adirondack Park Agency Act and 9 NYCRR 573.6(f).

PROJECT SITE

The project site is a 513± acre parcel of land located on Country Club Road [aka: Big Tupper Road] in the Town of Tupper Lake, Franklin County, in an area classified Resource Management and Moderate Intensity Use on the Adirondack Park Land Use and Development Plan Map. It is identified on Town of Tupper Lake Tax Map Section 510, Block 4 as Parcel 1. The project site is described in a deed from Big Tupper Ski Area, Inc. to Big Tupper, LLC dated November 3, 2005 which was recorded November 4, 2005 in the Franklin County Clerk's Office in Liber 897 of Deeds at Page 35. ARISE of Northern NY, Inc. entered into a lease agreement with Big Tupper, LLC dated September 15, 2010, to lease the project site for the purposes of re-opening the ski area. The term of the lease agreement is for one year, beginning September 15, 2010 and ending September 14, 2011.

PROJECT DESCRIPTION AS PROPOSED

The proposed project is summarized as follows: temporary re-use of the "Big Tupper" ski center. The ski center will primarily operate 9 AM to 4 PM, Friday thru Sunday and holiday Mondays and possibly during the week during the February school holidays. No snowmaking or lighted trails or nighttime skiing is proposed. The existing lodge will be used for ticket sales and as a warming area. It will also provide bathroom facilities and include vending machines, and water coolers. Bottled drinking water will be available as the on-site water is only suitable for non-potable uses. Food and beverage service will be offered by a mobile food service trailer which will not connect to the existing on-site water supply or on-site waste water treatment system. A third party commercial ski sale/rental store will operate within a portion of the lodge's basement area. The existing on-site wastewater treatment system and parking areas will be re-used. Two chair-lifts ("Chair 2" and "Chair 3") and one rope-tow will operate to provide access to all pre-existing skiable terrain. The pre-existing Safety Patrol Building, Maintenance Garage, Lodge, Powerhouse and old fire tower cabin (as a warming hut only) are proposed to be reused. No expansion of any existing structure is proposed. Snow groomer(s) will be used to maintain the trails; they will primarily operate immediately before the ski center opens and/or immediately after it closes. No new on premises signage is proposed.

An unlit, natural earth tone sign no more than 16 square feet in size will be installed on top of an existing sign advertising the golf course adjacent to the intersection of Country Club Road and NYS Route 30A.

The project, including the existing buildings, trails and parking areas which will be used as part of the ski center, is shown on an annotated copy of a survey, stamped, "Final Plans Adirondack Park Agency P2010-218, Date: November 2, 2010. A reduced scale copy of the Project plan is attached as a part of this permit for easy reference. The original, full-scale maps and plans referenced in this permit are the official plans for the project.

CONDITIONS

BASED UPON THE FINDINGS BELOW, THE PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. The project shall be undertaken as described in the completed application, the Project Description as Proposed and Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the permit is a violation and may subject the applicant, successors and assigns to civil penalties and other legal proceedings, including modification, suspension or revocation of the permit.
2. This permit is binding on the applicant, all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of this permit and the site plan map(s) referred to herein shall be furnished by the applicant to all subsequent owners or lessees of the project site prior to sale or lease, and by the applicant or any subsequent owner or lessee undertaking construction to any contractors undertaking any portion of this project. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2010-218 issued November 19, 2010 the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
3. The Agency may conduct such on-site investigations, examinations, tests and evaluations as it deems necessary to ensure compliance with the terms and conditions hereof. Such activities shall take place at reasonable times and upon advance notice where possible.

Temporary Use

4. This permit for temporary re-use of existing facilities shall expire on September 14, 2011. The project as proposed and authorized herein shall not continue after September 14, 2011, unless a new or renewed Agency permit is obtained.

Buildings and Trails

5. No new structures shall be built and none of the existing structures shall be expanded without a new or amended Agency permit.
6. No snowmaking shall occur on the project site without a new or amended Agency permit.
7. Removal of trees, brush and other vegetation shall be limited to the existing trail areas proposed to be re-used and as such are shown on the project plans. Vegetation will be cut flush to the ground, and no grading, root removal or other soil disturbance shall occur without prior Agency review and approval in the form of a new or amended Agency permit or letter of permit compliance.

Outdoor Lighting

8. There shall be no lighting on the ski trails or night-time skiing without a new or amended Agency permit. All free-standing and building mounted outdoor lights on the project site shall employ full cut-off fixtures, that is, they shall be fully shielded to direct light downward and not into the sky. The fixtures shall be oriented so as to not cast light toward adjoining property or public roads. The intent is to reduce nighttime light pollution (glare, light trespass and sky glow).

Signage

9. The 16± square foot sign proposed for the intersection at New York State Route 30A and Country Club Road shall not be luminated and shall be natural earth tone in color. It shall otherwise comply with Appendix Q-3 of Agency Regulations.

Petroleum Bulk Storage

10. All petroleum storage tanks shall be registered with NYSDEC as necessary and comply with the Department's Petroleum Bulk Storage regulations.

Food Service and Ski Rental

11. The food service trailer shall be located in the area proposed and shown on the plans referenced herein. The food service trailer shall remain completely self-contained and shall not connect to any on-site water supply or wastewater treatment systems on the property.
12. The food trailer and ski rental shop shall operate only during the ski center hours of operation, as authorized herein.

Wastewater Treatment

13. Wastewater flows to the existing treatment system shall not exceed 1000 gallons per day unless Agency approval and all necessary NYSDEC approvals are obtained authorizing such.
14. In the event of failure, expansion or replacement of the existing on-site wastewater treatment system, plans prepared by an engineer licensed in the State of New York shall be submitted to the Agency for review and approval in the form of a new or amended Agency permit.
15. As recommended in the "Report on Wastewater Disposal System at Big Tupper Ski Area, Tupper Lake New York" Prepared by Architectural & Engineering Design Associates, P.C., and dated 10/12/2010", prior to commencing operation for the 2010/2011 ski season the following measures shall be undertaken:
 - a. The seepage pits and distribution box shall be cleared of debris, repaired, and covered,
 - b. A water meter must be installed on the water supply main line which accounts for all water usage entering the on-site wastewater treatment system. Meter values and dates of recordation must be documented weekly during periods of operation.

Prior to commencing operation for the 2010/2011 season ARISE shall notify the Agency in writing that these actions have been completed.

Wetlands

16. No "regulated activity" as defined in the Agency's Freshwater Wetland Regulations (9 NYCRR Part 578) shall occur on the project site without prior Agency approval. Such activities include, but are not limited to, new land use or development in, subdivision of, clearcutting more than three acres within, or dredging or filling of a wetland, or any other activity, whether or not occurring within the wetland, which pollutes it or substantially impairs its functions, benefits or values.

Agency Review of Future Subdivision and Development

17. There shall be no subdivision or other new land use and development on the project site without a new or amended Agency permit.

FINDINGS OF FACT

25. Agency Permit 2009-224 authorized, in part, the temporary re-use of the lower portion (those areas accessed by "Chair 2" and the rope tow) of the "Big Tupper" ski center. The permit authorized the permittee to operate primarily from 9 AM to 4 PM, Friday thru Sunday and holidays without snowmaking, or lighted trails. The permit also authorized repair of the existing lodge for ticket sales and warming areas. Use of the existing bathroom facilities and associated on-site wastewater treatment system was also permitted. Finally, reuse of the existing maintenance garage and safety patrol buildings were also authorized. Except as modified herein, Findings of Fact 1 through 20 which are contained in Permit 2009-224 which was issued on November 13, 2009 and recorded on December 3, 2009 in the Franklin County Clerk's Office as Instrument 200974701 remain in effect.
26. Permit Amendment 2009-224A authorized the installation of a 128+ square foot self contained food service trailer ("Cook Shack") as well as a ski rental shop within the existing lodge building. Except as modified herein, Findings of Fact 21 through 24 which are contained in Permit Amendment 2009-224A which was issued on December 29, 2009 and recorded on January 14, 2010 in the Franklin County Clerk's Office as Instrument 2010-254 also remain in effect.
27. By letter dated August 23, 2010 ARISE requested a permit from the Agency to reopen Big Tupper ski area for the 2010/2011 ski season. Since the request also included the proposal to also reopen "Chair 3" the Acting Deputy Director of Regulatory Programs determined the change to be "material" pursuant §572.19 of Agency Regulations.
28. The project site is part of the site for Agency Project 2005-100, Adirondack Club and Resort, which is a proposed large scale resort project to be undertaken in phases involving re-development of the ski center, as well as residential and commercial aspects. Agency Project application 2005-100 has been determined complete and directed to public hearing. The temporary ski center re-use project as proposed and authorized herein was allowed to be processed as a separate application, because it:

- a. Is being proposed by a separate legal entity [ARISE of Northern NY, Inc.] on a temporary basis pursuant to the terms of a one year lease;
 - b. Is proposed to be undertaken during 2010/2011 winter ski season without regard to the status of the application for the larger residential development project [2005-100]; and
 - c. Consists of the temporary re-opening of an existing ski area with trails and lifts generally intact without the need for major reconstruction.
29. In accordance with Condition 14 of Agency Permit 2009-224 an evaluation of the existing on-site wastewater treatment system report was prepared by an engineer licensed in New York State. A report entitled "Report on Wastewater Disposal System at Big Tupper Ski Area, Tupper Lake New York" Prepared by Architectural & Engineering Design Associates, P.C., and dated 10/12/2010 was provided to the Agency. The report found/recommended:
- a. That the system is well suited for limited operation as proposed,
 - b. Debris has been placed in a seepage pit and distribution box and this debris needs to be removed,
 - c. Seepage pit and distribution box covers have deteriorated and need to be replaced,
 - d. Water use should be monitored through the installation of a water meter,
 - e. Installation of low flow fixtures in the public bathrooms.
30. The New York State Department of Health has approved the use of the on-site water supply as a non-potable supply for hand washing and toilet flushing only. Signs will be installed to warn the public of the non-potability of the on-site water supply and bottled water will be available to staff and patrons.
31. Start-up and operation costs are expected to remain close to the same as that for the 2009-2010 ski season (\$130,000). This cost was considerably more than the \$60,000 cost which was estimated to reopen the facility for the 2009-2010 ski season. For the 2009/2010 ski season approximately \$105,000 was for the cost of structural and equipment repairs, trail maintenance, operation of snow grooming equipment, insurance, promotion, and other miscellaneous supplies needed to reopen the ski area and \$25,000 was for salaried employees (e.g. area manager, etc.). A pool of approximately 200 volunteers was drawn from to fill the 15-20 staff positions

needed for daily operations. As with the 2009/2010 ski season, revenue for the 2010/2011 season is expected from ticket sales and a broad-based fundraising effort within the Tupper Lake community.

32. During the 2009/2010 ski season there were an estimated 8,000 skier visits. ARISE anticipates skier visits to increase 25 to 30% for the 2010/2011 ski season.

PROJECT IMPACTS

Operational Issues Affecting Nearby Land Uses

1. The project as proposed and authorized herein will not result in any new adverse impacts to adjacent land uses, given that the project is a recommencement of a prior use with: limited operating hours [primarily 9 AM to 4 PM, Friday thru Sunday and holidays]; no nighttime skiing; and no snowmaking. The temporary nature of the proposed project also minimizes impacts to adjoining landowners, as does requiring that the project not continue beyond September 14, 2011 without further Agency review and approval.
2. The New York State Department of Labor will be conducting load tests and safety inspections. The Agency makes no specific findings or representations with regard to operational, worker, or skier safety at the ski center, which is within the jurisdiction of the NYS Department of Labor.

Wetlands

3. The project as proposed and authorized does not involve any new land use or development in the wetlands and thus will not involve loss of wetland acreage, function or benefits derived therefrom.

Critical Environmental Area(s)

4. A biological survey conducted for Big Tupper Ski Area, Inc. by Edwin H. Ketchledge, Ph.D., revealed an absence of alpine habitats or alpine plant species on those lands within the critical environmental area which are used for skiing.

Water Resources

5. Provided the on-site wastewater treatment system the on-site wastewater treatment system are modified and used as conditioned herein both surface and groundwater resources will adequately accommodate the limited operation proposed for the 2010/2011 ski season.

Electricity

6. Electricity for the project will be provided by the Village of Tupper Lake. The site is currently served by an existing 13.2kV overhead distribution line from NYS Route 30, along Read Road and then cross-country to Ski Tow Road. Existing electrical distribution facilities have the capacity to accommodate the reopening of the ski center.

Impacts to the Community

7. During the 2009/2010 ski season ARISE used the reopening of the ski area to stimulate economic and community development for the Village of Tupper Lake. The ski area developed special programs that included reciprocal ticket program with The Wild Center and also offered a free ski pass to customers who either stayed in a Tupper Lake motel or provided a \$30.00 receipt from a local business. Furthermore, ARISE worked with local schools to identify children that may not be able to afford skiing. These individuals were given the opportunity for free rentals, lessons, and skiing.

Historic Sites or Structures

8. In conjunction with Agency Project 2005-100, a Phase I Literature Review and Archeology Assessment Study and a Phase I Archeology Field Reconnaissance were conducted. The New York State Office of Parks, Recreation and Historic Preservation issued a letter stating that the "project will have No Effect on cultural resources in or eligible for inclusion on the State and National Registers of Historic Places". Thus the project as proposed and authorized herein will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR Section 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

CONCLUSIONS OF LAW

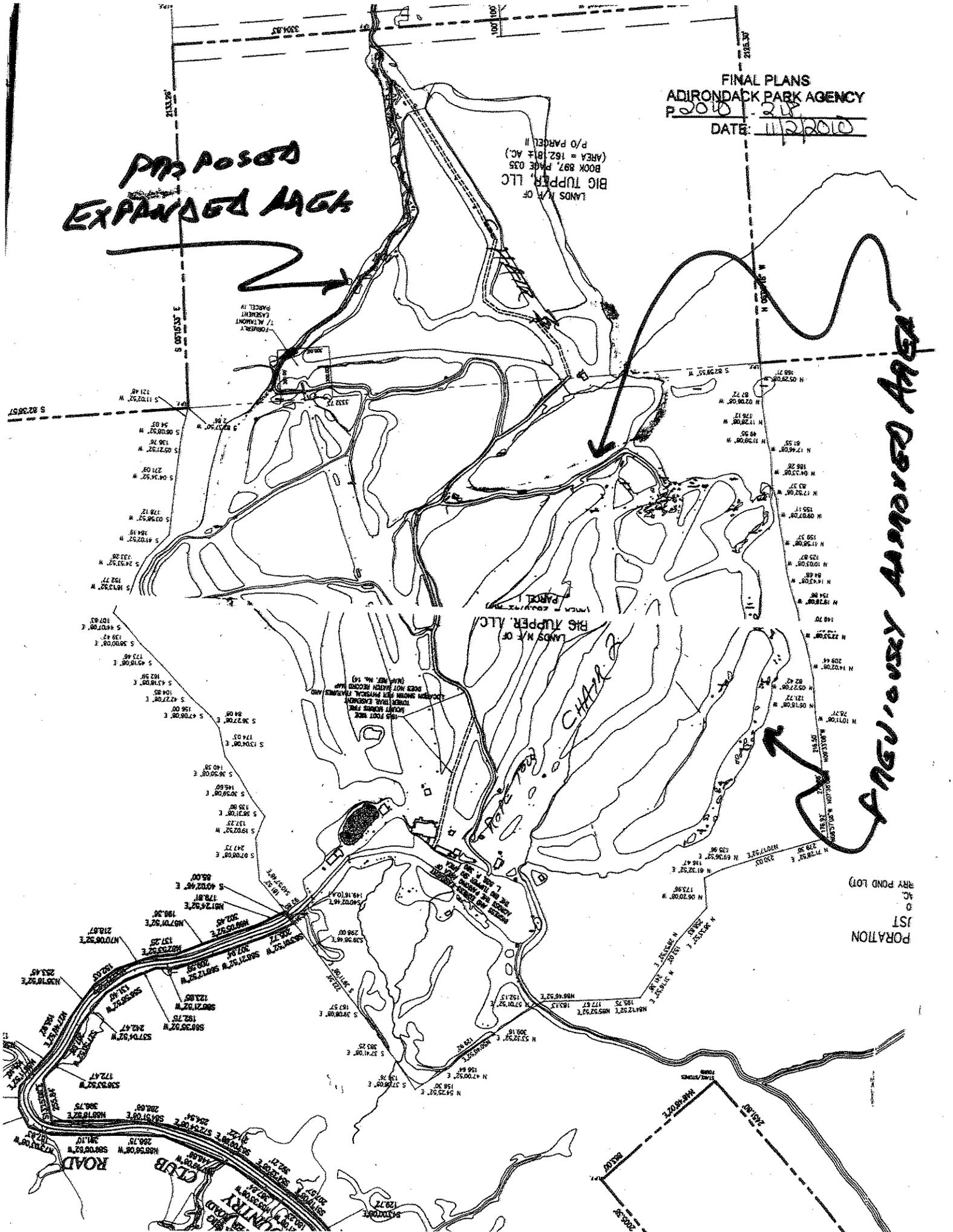
The Agency has considered all statutory and regulatory criteria for project approval as set forth in: §809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574. The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

FINAL PLANS
ADIRONDACK PARK AGENCY
P 2010 - 218
DATE: 11/2/2010

PROPOSED
EXPANDED MACK

LANDS M/O OF
BIG TUPPER, LLC
BOOK 897, PAGE 035
P/O PARCEL II

ANGLOUSKY KENNEDY AREA



ROAD
CLUB
COUNTRY ROAD

PORTION
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