



NOTE: The attachments referred to herein are on file at the Agency and are on the Agency's website. Copies are also available for inspection on request.

DRAFT AGENCY MINUTES

APRIL 14-15, 2011

THURSDAY, APRIL 14, 2011

AGENCY MEMBERS, DESIGNEES AND EXECUTIVE STAFF PRESENT

Curt Stiles, Chairman
Richard Booth, Member
Frank Mezzano, Member
William Thomas, Member
F. William Valentino, Member
Cecil Wray, Member
James Fayle, Designee, NYS Department of Economic Development
Elizabeth Lowe, Designee, NYS Department of Environmental Conservation
Dierdre Scozzafava, Designee, NYS Department of State
James Connolly, Deputy Director of Planning and Acting Executive Director
John Banta, Counsel

AGENCY MEMBERS ABSENT

Arthur Lussi, Member
Leilani Ulrich, Member

LOCAL GOVERNMENT REVIEW BOARD PRESENT

Fred Monroe, Executive Director

AGENCY STAFF PRESENT

Richard Weber, Deputy Director, Regulatory Programs
Holly Kneeshaw, Assistant Director, Regulatory Programs
Keith McKeever, Public Information Director
Daniel Spada, Supervisor, Natural Resource Analysis
Kathleen Regan, Associate Natural Resources Planner
Suzanne McSherry, Environmental Program Specialist 1
John Burth, Environmental Program Specialist 2
Richard Terry, Senior Attorney
Tracy Darrah, Environmental Program Specialist 1
Mary Reardon, Secretary 1
Deborah Lester, Secretary to Executive Director

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 2

Chairman Stiles called the meeting to order at 9:03 a.m.

1. Announcements

Chairman Stiles noted Deputy Director of Planning Jim Connolly would be Acting Executive Director in Terry Martino's absence this month. He also noted the absence of Agency Members Arthur Lussi and Leilani Ulrich from this month's meeting. In their absence, he advised that he would chair the Economic Affairs and Regulatory Programs Committees and that DOS Designee Scozzafava and Mr. Mezzano would sit as voting members on the Regulatory Programs Committee.

2. Minutes

On motion of Mr. Wray, seconded by Mr. Booth, the Agency unanimously adopted the March 17-18, 2011 Agency Minutes, as amended to reflect the following corrections by Messrs. Valentino and Booth:

Page 16 - Mr. Valentino also noted that in a follow-up discussion with Mr. Murray, he requested an Adirondack Park champion in NYSERDA if experience indicates the normal connections with local and regional entities do not work in helping to deliver energy and conservation assistance to the Adirondack Park.

Page 17 - Mr. Booth then referred to the photograph of Greenleaf "Greenie" Chase (along with Clarence Petty and Gary Randorf) included in one of the slide presentations viewed by the Agency.

3. Acting Executive Director's Report

Mr. Connolly acknowledged Brian Grisi and Robyn Burgess for their support and partnering with AATV, Local Government Review Board, DEC and DOS, in making Local Government Day 2011 a huge success. Mr. Connolly also expressed the Agency's appreciation for the assistance of Bill Farber and Brian Towers of AATV.

He then provided a status update regarding the adjudicatory hearing on the Adirondack Club and Resort project which commenced on March 16 at the LP Quinn Elementary School in Tupper Lake. In addition to the legislative sessions held on March 16, adjudicatory sessions were also held on March 22-24 and are expected to resume on April 26. The hearing schedule is posted on the Agency website along with information on the

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 3

adjudicatory hearing process. He also noted a DVD was distributed to Agency Member that morning containing video of all hearing sessions held to date.

4. Resolution 2011-2 in Recognition of Earth Day, April 24, 2011 - International Year of Forests 2011

Mr. Connolly referred to the draft resolution included with the Agency mailing and he distributed copies of an article from the February 2011 issue of DEC's *Conservationist* magazine which featured the International Year of Forests. The International Year of Forests was established by the United Nations. The lead agencies in the United States are the National Association of State Foresters and USDA Forest Service. Mr. Connolly noted that Rob Davies, State Forester and Director of Lands and Forests at DEC, was a delegate to the United Nations Forum on Forests held earlier this year. The International Year of Forests campaign focuses on clean air and water, economic health, community and personal health, and ecosystem health. Mr. Connolly referred to the website www.celebrateforests.com/participate for further information on the International Year of Forests.

Mr. Connolly noted that in addition to Earth Day, Arbor Day is also celebrated in April. Traditionally staff plants an Arbor Day memorial tree on Agency grounds, and this year will plant a tree in honor of Clarence Petty.

Forestry Awareness Day, a lobbying event organized by the Empire State Forest Products Association, will be held on May 2 in Albany. Among this year's legislative issues are the development of property tax and assessment legislation that will encourage long-term forestry practice; sufficient funding for DEC to sustainably manage the State forests; budget support for the newly created Wood Products Development Council, which is a joint effort of DEC, Agriculture and Markets and Empire State Development; and aggressively combating invasive species with increased state and federal funding.

Referring to the draft resolution, Mr. Booth suggested an amendment to the fifth "Whereas" clause, removing reference to APA land classifications and replacing it with a reference to the 6 million acre Adirondack Park.

On motion of Ms. Lowe, seconded by Mr. Thomas, the Agency adopted by acclamation Resolution 2011-2, as amended. A copy of the resolution as approved by the Agency is attached to the official minutes.

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 4

5. Motion to Adjourn into Committees

On motion of Mr. Wray, seconded by Mr. Fayle, the Agency unanimously adjourned into committees at 9:24 a.m.

The Agency reconvened at 1:00 p.m. for the Community Spotlight presentation.

6. Community Spotlight: Town of Schroon, Essex County

Town of Schroon Supervisor Cathy Moses and Town Councilman Roger Friedman showcased the Town's successes, challenges and goals for the future.

Supervisor Moses began the presentation with a review of improvements and upgrades made since she took office in November 1999. The Town rebuilt its infrastructure with the construction of a new municipal water system, and reconstruction of its wastewater treatment plant that was failing and under DEC consent order. The wastewater system was made possible by State and Federal grant money. Some other improvements and upgrades included construction of a community center and a playground for children. The airport runway was upgraded with State and Federal grant money, and a new highway garage was constructed after 20-foot cracks appeared in the old garage. Upgrades and improvements have also been made to the historical boathouse in the Town Park, along with a lakeside esplanade funded by a State historic preservation grant. With assistance from Senator Little, the Town was able to upgrade the historical bandstand that was in disrepair. In a joint project with DEC, the Town constructed a pier and new boat trailer parking area, while DEC constructed the actual boat launch. In conjunction with the water project, the Town worked with DOT to reconstruct Main Street and added flower boxes. The Town also completed a watershed plan for Schroon Lake. The plan highlights problems with recommendations for remediation. Also, the Town is working closely with Soil and Water Conservation District in Essex and Warren counties in the effort to combat milfoil in Schroon and Paradox Lakes. The establishment of a Revolving Loan Fund enabled the rebuilding of the local Grand Union and the purchase of the old fire house for a new library. Working with the Lake Placid Visitors Bureau, the Town created a tourism destination blueprint to promote Schroon Lake. A complete list of improvements and upgrades as well as town events was provided for the Agency.

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 5

Supervisor Moses recognized the Town Board for its cooperative effort which encourages productivity and has resulted in accomplishments. She introduced Town Board Member Roger Friedman, who gave his perspective of Schroon Lake in terms of its past, present and future.

Mr. Friedman recalled the past, before the Northway was constructed, when Schroon Lake flourished. The local economy consisted of cottages, cabins and motels, the Leland House hotel, several youth camps, the Scaroon Manor Resort and Frontier Town. There was no need to market Schroon Lake because it was on Route 9, the primary north-south route between Albany and Montreal. However, the construction of the Northway in the 1970's created a bypass around Schroon Lake. At present, only a few youth camps remain and many of the mom and pop services have closed or are in a state of disrepair. Frontier Town has been dismantled, and although 59% of the homes are owned by second homeowners, not one of them with a business has relocated their business to Schroon Lake.

The Town's plan for the future focuses on three areas: (1) lake, (2) tourism and (3) hamlet expansion. The shoreline is shared by three towns (Chester, Horicon and Schroon), two counties (Essex and Warren) and two active lake associations. In 1994 the Town hired a Lake Manager to perform annual comprehensive water testing of the lake. Since then, the Town and the Schroon Lake Association have developed a close working relationship. With the subsequent discovery of Eurasian milfoil in the lake, the Lake Association agreed to pay for milfoil reconnaissance and scientific studies while the three towns on the lake would pay for harvesting. A boat launch stewardship program and milfoil scout program were implemented. Also, at the recommendation of the Lake Manager, a lake master plan was developed with the support of the Schroon Lake Association, Eastern Schroon Lake Association, Warren and Essex County Soil and Water Conservations Districts, and the Towns of Chester, Horicon and Schroon. The plan was featured at the Local Government Day conference in Lake Placid. A steering committee was formed to implement the recommendations in the master plan and is currently working on both short-term and long-term goals.

Through an Essex County Smart Growth grant for tourism planning, the Town developed a blueprint for tourism with the assistance of a consultant, Egret Communications. A Destination Master Plan for Schroon Lake was developed which involved assessment, analysis and goals along with actions to build a stronger tourism economy in Schroon Lake. For the town to be sustainable it needs to expand local tourism to improve revenues and create

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 6

year-round jobs. The plan called for the establishment of a Tourism Council to execute the actions needed to accomplish the goals described in the plan, including improving lodging opportunities in the town; promoting the town as an ideal base camp whose location is convenient to regional attractions; making better use of surrounding State land; building a closer relationship with Word of Life; improving Schroon Lake's web presence; and improving curb appeal. In less than a year, the Tourism Council has had moderate success in implementing the blueprint. For example, in May the town will have its first Schroon Spruce Up Day; bike rentals and pontoon cruises were developed in partnership with Word of Life; the Boy Scouts are looking to adopt a snowshoe loop in Hoffman Notch; and two lodging facilities are on the drawing board. Additionally, improvements on State land will also boost the local economy. For the first time there is snowmobile trail linking Essex and Warren counties. The established trails in the Hoffman Notch state land unit, the North Country Scenic Trail, and the historic Scaroon Manor will all help to promote tourism in Schroon Lake. The Seagle Music Colony, established in 1922, is the oldest summer vocal training program in the United States. Students give concerts in the town and other locations in the Adirondacks throughout the summer.

As Schroon Lake has very few areas for residential growth, the Town is pursuing expansion of its Hamlet-classified land through the Agency's map amendment process. Planning has focused on the only area with Hamlet characteristics, presently classified Low Intensity Use and bordered by Hamlet. The Town's hamlet expansion plan applies and implements many of the Smart Growth recommendations and principles discussed in the recently released "Hamlets 3." The largest of the property owners in the area have agreed that in exchange for reclassification of their property to Hamlet, at least 20 percent of future lots created will be for affordable housing through a community trust to be administered under the auspices of the Housing Assistance Program of Essex County. The Town has submitted a Smart Growth Grant application for a residential growth initiative which includes hamlet expansion with an affordable housing component. The range of benefits would be positive for everyone, from allowing young families to remain within the community, retaining community school enrollment, and expanding tax base.

Mr. Friedman concluded his remarks, stating there is no doubt that good long-term community planning makes a difference. The Town of Schroon has made a serious investment in rebuilding the entire town infrastructure. It is ready for tourism-related growth and hamlet expansion. At the same time, the lake quality

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 7

is a shared commitment. By aiming high and addressing opportunities as they come along, the Town is hopeful it is on a course to retaining a balanced and sustainable community.

Mr. Mezzano noted the importance of a comprehensive plan when considering hamlet expansion. Also, he suggested the Town keep in mind Westport's innovations in terms of sewer and water extensions to potential growth locations.

Mr. Thomas referred to the 2010 Census data which shows the populations of Park communities declining while populations of communities partially in the Park are rising. He attributed much of it to second homeowners, and noted a negative impact it has in terms of aid to localities. He asked Supervisor Moses for her thoughts about increasing employment in the Adirondacks to make hamlets more viable.

Supervisor Moses noted there was some controversy surrounding the Census data and that the Town was exploring its options. She added that the Town hoped the initiatives described earlier by Mr. Friedman would attract people to the community.

Mr. Friedman pointed out that the numbers, while reflecting a small decrease, nevertheless reveal an ongoing trend. He said it is incumbent on communities who want to remain sustainable to devise a strategy to increase both jobs and revenues.

Mr. Booth asked about the decline in school enrollment.

Mr. Friedman recalled fluctuations in the school enrollment, from 300-400 to 240 at present, with some of the elementary classrooms in the single digits.

In response to Mr. Booth's question about the state of repair and capacity for growth of the municipal sewage system, Supervisor Moses advised that the system had been upgraded including a collection system and is equipped to handle future growth.

Mr. Booth also asked about the water quality data and any discernible trends.

Mr. Friedman replied that comprehensive water testing has been ongoing since 1995, with less comprehensive testing having started a number of years before that. Regarding trends, in addition to Eurasian watermilfoil, a beaver lodge on the east shore of the lake was found to be the source of a change in water quality.

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 8

Mr. Fayle asked Mr. Friedman if the Town, in developing the tourism master plan, looked at what other towns are doing to identify opportunities for piggybacking and also to avoid creating conflicts. Mr. Fayle also asked if the two hotel development projects that are currently being undertaken involve local residents or developers from outside the area.

Mr. Friedman responded that both projects involved local residents. In addition to a project in which he is personally involved, another project involves a second homeowner who purchased a commercial lakefront property several years ago and is now planning a 35-room lodge and condos project. The property is serviced by town water, but sewer does not extend that far. The property owner is exploring creative waste water options. Mr. Friedman noted that in creating the tourism blueprint, the challenge was to turn a negative in a positive, starting with essential components that would make the town more competitive, such as lodging. Like most communities in the Adirondacks, Schroon is event-oriented but lacks sufficient beds to sustain revenue.

Chairman Stiles asked the status of the Town's hamlet expansion project in terms of consulting the Agency and next steps.

Mr. Friedman responded that discussions between the Town and Agency staff started about 4-5 years ago and again as recently as two years ago. Discussions involved extending municipal sewer to the hamlet expansion area. The Town has submitted a Smart Growth grant application earlier this year which is based on soil sampling and extending sewer to the hamlet expansion area as well as a proposed commerce park and several areas on the lake that do not have suitable natural conditions for septic systems.

Mr. Connolly pointed out that regardless of whether or not the Town receives a Smart Growth grant, discussions between the Town and the Agency should continue. He noted that in some ways the focus is overly on sewer line expansion, which is a very expensive undertaking. He suggested other land use classifications should be explored which would provide for increased density in the area along the Northway. Existing soils and wetlands are factors that will need to be taken into consideration in any map amendment proposal. He noted staff looks forward to working with the Town on an application involving an appropriate amendment area.

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 9

Mr. Friedman said he was not aware of any wetlands in the area identified for hamlet expansion. Regarding soils, he recalled the meeting five years ago at which Agency staff said the soils appear to be very good for septic systems. Subsequently, in a meeting two years ago, the need to expand sewer into the area was introduced into the discussion. He acknowledged the Westport strategy would be a possibility.

Mr. Connolly noted that if the soils are suitable for septic, the Town and Agency staff could work on developing a proposal for a map amendment for Moderate Intensity Use (1.3 acre density).

Chairman Stiles asked if there was any other opportunity for the Agency to provide assistance to the Town.

Supervisor Moses responded that she had not encountered any major issues in any of the applications sent to the Agency in her 12 years of service to the Town. Staff has been very helpful throughout the application process.

Mr. Friedman said that in his full-time real estate business, which his father started 62 years ago, he had heard some APA "horror stories" which were real, but he noted progress in terms of relationships between the Agency, the Review Board and the people in the Adirondacks. In terms of relationships with the Agency, he said as a real estate broker he has been impressed with the knowledge and professionalism of the field staff, and from a municipal standpoint the Agency has always made an effort to facilitate the Town's ability to move forward.

Mr. Monroe asked Mr. Friedman's opinion about the proposed community housing bill, the density bonus component of the proposal and the possibility of density transfer to the community for affordable housing when the State purchases land or conservation easements.

Mr. Friedman responded that both of those concepts were easy to support. He referred to the hamlet expansion and the economic benefits of the creating 100 more units not only with regard to tourism, but also the decrease in user cost within the sewer district. Given the significant cost of rebuilding the wastewater treatment plant which resulted in a substantial increased capacity, 100 additional units would reduce the user cost by \$100-150 per household.

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 10

Mr. Thomas asked Mr. Friedman the significance of the Hoffman Notch Wilderness Area to the Town.

Mr. Friedman replied that Hoffman Notch Wilderness, with its snowshoeing, cross-country skiing and hiking trails, is important to the Town, particularly in terms of generating ecotourism.

Chairman Stiles presented Supervisor Moses with an APA lapel pin.

The Agency adjourned at 1:50 p.m.

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 11

FRIDAY, APRIL 15, 2011

AGENCY MEMBERS, DESIGNEES AND EXECUTIVE STAFF PRESENT

Curt Stiles, Chairman
Richard Booth, Member
Frank Mezzano, Member
William Thomas, Member
F. William Valentino, Member
Cecil Wray, Member
James Fayle, Designee, NYS Department of Economic Development
Elizabeth Lowe, Designee, NYS Department of Environmental
Conservation
Dierdre Scozzafava, Designee, NYS Department of State
James Connolly, Deputy Director of Planning and Acting Executive
Director
John Banta, Counsel

AGENCY MEMBERS ABSENT

Arthur Lussi, Member
Leilani Ulrich, Member

LOCAL GOVERNMENT REVIEW BOARD PRESENT

Fred Monroe, Executive Director

AGENCY STAFF PRESENT

Richard Weber, Deputy Director, Regulatory Programs
Holly Kneeshaw, Assistant Director, Regulatory Programs
Keith McKeever, Public Information Director
Thomas Saehrig, Environmental Program Specialist 2
Greg Bendell, Environmental Engineer
Doug Miller, Environmental Program Specialist 1
Emily Tyner, Environmental Program Specialist 1
Sarah Reynolds, Senior Attorney
Richard Terry, Senior Attorney
Aaron Ziemann, Student Assistant
Deborah Lester, Secretary to Executive Director

Chairman Stiles called the meeting to order at 10:45 a.m.

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 12

1. Committee Reports

a. Regulatory Programs Committee

(1) 2009-153, Town of Moriah

The proposal involves a shoreline structure setback variance for a series of revetments/groin structures within the mean high water mark of Lake Champlain, in an area classified Hamlet in the Town of Moriah, Essex County.

Chairman Stiles reported that the Committee unanimously moved the matter to the full Agency with a recommendation to approve the variance request in accordance with the draft variance Order, to be revised to include additional text within the variance criteria considerations describing the alternatives that were considered. The Chairman referred to the proposed draft language to be added to the Order.

On motion by Chairman Stiles, seconded by Mr. Wray, the Agency voted unanimously to approve the variance request in accordance with the revised draft variance Order. A copy of the Order as approved by the Agency is attached to the official minutes.

(2) 2010-298, Heartwood Forestland Fund, III, LP

The matter involves amendments to Permit 98-313 as well as after-the-fact approval of hunting and fishing cabins pursuant to the modified settlement agreement. The project site is located in the towns of Duane, Santa Clara and Waverly, Franklin County; Clare, Clifton and Hopkinton in St. Lawrence County; and Croghan and Watson in Lewis County, in areas classified Resource Management and Rural Use.

Chairman Stiles reported that the Committee voted 4 to 1 to recommend Agency approval of the draft Permit, as further modified to address the issue of camps as principal buildings.

Chairman Stiles referred to draft revisions addressing the principal building issue that was raised in the committee meeting. He then moved and Mr. Wray seconded Agency approval of the revised draft Permit. The motion carried by an 8 to 1 vote. (Chairman Stiles, Members Mezzano, Thomas, Valentino and Wray, and Designees Fayle [Department of Economic Development], Lowe [Department of Environmental Conservation] and Scozzafava [Department of State] voted in favor; Member Booth voted against.) A copy of the Permit as approved by the Agency is attached to the official minutes.

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 13

The Chairman took the opportunity to recognize Senior Attorney Rich Terry, who will be retiring at the end of the month with 31 years of State service, all of them with the Agency. He noted that Mr. Terry provided assistance throughout this project and at the committee meeting. He said Mr. Terry's work on this project epitomizes the kind of service, dedication and character that he has brought to the Agency for the last 31 years. Mr. Terry has been an advocate for the Agency, for the applicant, and for the Park. He is one of the most highly regarded attorneys ever at the Agency, and well-respected by his colleagues and those who have come into contact with him in the Park. On behalf of the Agency, Chairman Stiles thanked Mr. Terry and expressed best wishes on his retirement.

(3) 2006-323, Rangeview at Lake Placid, LLC

The project involves an 85-unit multi-family housing development in an area classified Hamlet in the Town of North Elba, Essex County.

On motion of Chairman Stiles, seconded by Mr. Valentino, the Agency unanimously approved the project in accordance with the draft Permit. A copy of the Permit as approved by the Agency is attached to the official minutes.

b. Enforcement Committee

Mr. Wray reported that the Committee reviewed and commented on proposed revisions to the Civil Penalty Guidance.

Counsel advised that Agency policy normally calls for three readings to approve, but noted that action may occur on the second reading if no significant concerns are raised.

Mr. Booth asked if any further changes were anticipated, and Counsel replied that revised draft guidance would be provided next month reflecting comments and suggestions received from the Board.

c. Administration Committee

Mr. Mezzano reported that following a second reading of proposed changes to the "Resolution of the Adirondack Park Agency on Delegating Certain Powers and Responsibilities" (Delegation Resolution) which resulted in further revisions based on the Committee's discussion, the Committee unanimously recommended

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 14

Agency approval in accordance with the proposed final draft document.

He so moved and Mr. Wray seconded the motion, which passed unanimously. A copy of the Delegation Resolution as approved by the Agency is attached to the official minutes.

d. Local Government Services Committee

(1) Town of Queensbury Local Land Use Program

On motion of Mr. Thomas, seconded by Ms. Scozzafava, the Agency unanimously adopted the draft Resolution approving the proposed Town of Queensbury program amendment. A copy of the Resolution as adopted by the Agency is attached to the official minutes.

(2) Town of Chester Local Land Use Program

On motion of Mr. Thomas, seconded by Mr. Valentino, the Agency unanimously adopted the draft Resolution approving the proposed Town of Chester program amendment. A copy of the Resolution as adopted by the Agency is attached to the official minutes.

2. Interim Reports

a. Economic Affairs Committee

On motion of Mr. Fayle, seconded by Ms. Lowe, the Committee unanimously approved the Draft March 2011 Committee Minutes.

b. State Land Committee

On motion of Mr. Thomas, seconded by Mr. Valentino, the Committee unanimously approved the Draft March 2011 Committee Minutes.

3. Public Comment

Richard Brummel, a resident of Long Island and visitor to the Adirondack Park, made a statement in which he expressed deep concern over development in the Park as well as the policy and philosophy of the Agency. He gave examples of development, logging traffic and the general anti-environmentalism attitude within the Park which demonstrated very little respect for the Park and its ecosystem. He questioned the Agency's ability to manage stewardship of the Park in the way it was originally intended by the Legislature, which is to protect the environment while giving other considerations equal balance. Mr. Brummel

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 15

reviewed 4 points which are described in greater detail in his written statement. Counsel accepted copies of Mr. Brummel's statement for distribution later to the Agency Members.

Daniel Plumley of Adirondack Wild commented on the Agency and the effect of its actions on the future of the Park. He expressed his concern that the Agency is becoming more insular and hidden in its decisions. He also noted the disenfranchisement of those who want to stand up for the mission and the true high ideals embodied in the APA Act. He referred to the undeveloped private, wild spaces of the Park, noting they, too, are owed due protection and consideration. He described instances in the last ten years when the Agency denied the public's request for public hearings or public comment on such environmentally sensitive projects as well as State Land Master Plan snowmobile trail maintenance and design guidelines, and more recently the MOU between the Agency and the Local Government Review Board.

Public comments are part of the Agency's web cast and may be viewed at http://nysapa.granicus.com/ViewPublisher.php?view_id=2.

4. Local Government Review Board Comment

Fred Monroe, Executive Director, responded to the statements made in Public Comment. He called attention to the Agency's legal obligations to follow the APA Act, which it has done throughout this two-day meeting. He also noted the importance of the Heartwood project to the Adirondacks. The Agency's approval of the project recognizes current State policy to retain hunting and fishing cabins and recreational leases on conservation easement lands. Not only is it important to communities to preserve those uses, it also benefits forest management companies to have recreational leases that pay a portion of their taxes. He then referred to the International Year of Forests and pointed out that there are 14 million acres of private forests in New York, more than there was 100 years ago. Also, the economic contribution of the forest products industry is \$14 billion, compared to \$1.9 billion by the tourism industry. These figures support local government's position that while the tourism industry is very important to the Park, it has a smaller impact on the economy than the forestry industry. It also points to the economic importance of what little remaining forest industry there exists in the Adirondacks. Finally, Mr. Monroe recognized Rich Terry and his professionalism and assistance he provided throughout his career at the Agency.

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 16

5. Member Comment

Mr. Fayle reiterated Mr. Monroe's comments, and commended Mr. Connolly on his assistance as Acting Executive Director in Ms. Martino's absence.

Ms. Scozzafava referred to the feedback from the recent Local Government Day conference, particularly the preference for open forum style meetings with questions and answers. She suggested that type of access would be appropriate for the regional economic development councils proposed throughout the state.

Mr. Thomas reiterated his support for the Community Spotlight presentations. He also commended the Hamlets 3 report, which encourages communities to enhance their planning.

Mr. Mezzano concurred with Mr. Thomas, adding that each Community Spotlight presentation reinforces recognition of the amount of work that Supervisors do and their dedication to their communities.

Ms. Lowe referred to the public comment regarding the need for more public engagement and involvement, and pointed out a lengthy history of this over the past 20 years on a number of issues in the Park. She noted that DEC is exploring more opportunities for public input. She pointed out, however, that there is always a balance in terms of the type and extent of public outreach and involvement. She referred to Local Government Day and the newly formed Public Awareness and Communications Committee are examples of good opportunities for public outreach and involvement.

Mr. Booth said that while he disagreed with some of the public comment, he believed that because of the policy implications of the Heartwood Champion conservation easement lands, he felt that a public hearing would have been appropriate. He stated that in reality the Act from the beginning was a balance, and the Agency itself is a balance. What that balance is or should be is highly debatable and controversial, and will always remain so. Mr. Booth stated there is a need to know more about what is happening to the Park long term. He said he was encouraged by Schroon Lake's long-term water quality testing which has shown no significant changes. He noted that a positive change that was not foreseeable in the 1970's is the emergence of conservation easement lands, which gives hope for an optimistic future. Mr. Booth also commented on the Census numbers discussed in the Local Government Services Committee, which illustrate that land, land use and the people who use it are

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 17

constantly changing. He then referred to the forest numbers reported in relation to the International Year of Forests, 14.4 million acres of private forest lands and 687,000 owners, and noted that most of the forest lands throughout New York are held by tens of thousands of people in small amounts, the average size being 20 acres with the size increasing in the Adirondacks.

Mr. Banta said he would withhold articulating his appreciation for Rich Terry until June when there would be opportunity to do so at a retirement celebration in Mr. Terry's honor.

Chairman Stiles referred to the public comment session. He acknowledged Mr. Brummel's remarks, particularly the four points included in his statement which focuses on things that are important to the Agency: (1) the Agency needs to regain its independence from local interests in the Park, be more neutral, and promote the interests of the state as a whole; (2) the Agency needs to shift "optimum balance" toward preservation over development given the changes in global and environmental conditions over the years; (3) the Agency needs to be more proactive; and (4) the Agency needs to adopt an ecological and scientific approach to its policy making and decision making. The Chairman acknowledged that the Park clearly is in a different place and time between 1973 and today, and that it is important to provoke thought and discussion and whatever actions that might follow. Also, to be active or proactive as opposed to being reactive is a basic principle the Agency needs to think about. There can never be enough science; however, the Agency cannot always afford all the science it would like to have in a given situation. It is important to discern the difference between an opinion, a rant, and the facts. For the Agency to react to every public comment, whether environmentalist or local government or general public, it is not doing itself or the public it serves adequate service. The Agency must act on the facts and the basis of its charter, statute and legislative mandate. Chairman Stiles then referred to criticisms against the integrity of the Agency staff and board members, and stated that while people can disagree with what the Agency does or challenge its decisions, he would defend against those who impugned the character or quality of the staff and the board, and the work that they do. He said the people in this organization, working for the State of New York, doing the work they do under the circumstances they operate under, is unparalleled, and he would not question the integrity of any member of this agency because of his trust in them. The public's trust in the Agency is well placed, he said.

DRAFT AGENCY MINUTES

April 14-15, 2011

Page 18

6. Adjournment

The Agency unanimously adjourned at 11:55 a.m.

CFS:dal

Attachments: Resolution 2011-2 - Earth Day/International Year of
Forests 2011
2009-153, Town of Moriah
2010-298, Heartwood Forestland Fund, III, LP
2006-323, Rangeview at Lake Placid, LLC
Delegation Resolution
Resolution 2011-3, Amendments to Town of Chester
Local Land Use Program
Resolution 2011-4, Amendments to Town of Queensbury
Local Land Use Program

Curtis F. Stiles, Chairman

RESOLUTION 2011-2
IN RECOGNITION OF EARTH DAY APRIL 24, 2011
INTERNATIONAL YEAR OF FORESTS 2011

Whereas, Earth Day has for the past forty-one years reminded us of our collective responsibility to protect the environment, recognize our interdependence with the natural world and its people, conserve natural resources, and live in a manner respectful of the Earth and its habitats; and

Whereas, in the forty-first year of Earth Day, the United Nation's General Assembly has recognized 2011 as the International Year of Forests; and

Whereas, in the 1885 establishment of the Forest Preserve, the 1892 creation of the Adirondack Park, and the subsequent Article XIV constitutional protection of public forest lands as "Forever Wild" in 1894, New York State has demonstrated extraordinary leadership in the recognition of the need for the protection of Adirondack forests and a Park landscape that combines the attributes of open space and communities; and

Whereas, since 1973, the Adirondack Park Agency has administered the Adirondack Park Agency Act with the goal of insuring "optimal overall conservation, protection, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack Park;" and

Whereas, the Adirondack Park, with its mosaic of public and private lands, including more than 2,500,000 acres of public Forest Preserve lands and 1,685,600 acres of private forested land, is the largest area of protected and managed temperate hardwood forests in North America, and is recognized as one of the Earth's special regions amidst the approximately 26 million acre Northern Forest across New York, Vermont, New Hampshire and Maine; and

Whereas, the Adirondack Park and its forested landscape includes 103 towns and villages which are home to 132,000 residents who benefit from a unique interdependence on the natural resource base and forestlands of the Park; and

Whereas, the forests and understory vegetation define the landscape of the Adirondack Park with picturesque, towering deciduous and coniferous trees including birch, cherry, maple, pine, balsam fir, hemlock and spruce, and provide clean air and

water, open space, wildlife habitat, biological diversity and carbon sequestration; and

Whereas, the working forests of the Park contribute to the Park's economy with the historical and present traditions of lumber camps, river log drives, paper mills, and employment in the forest management industry, including timber and biomass harvesting, milling and wood products manufacturing; and

Whereas, the public forests of the Park contribute to the abundance of nature-based tourism and world-class recreational opportunities for residents and millions of visitors to the Park; and

Whereas, the Adirondack Park, its communities and its forested landscape experience the modern-day threats of global climate change, acid deposition, and invasive species, and are impacted by a global economy, changes in forest-based industries, inadequate infrastructure, and uncertain fiscal and economic conditions; and

Whereas, the Adirondack Park Agency acknowledges that resource protection and economic improvement are interdependent and mutually beneficial and protected forestlands contribute to open space, community viability and quality of life; and

Whereas, in recognition of the interdependence and diversity of all life which shares in the habitats and forestlands of the Earth, and the recognition that, now, more than ever, there is a shared responsibility of government, business, institutions and individual citizens to protect the forests of the Park;

Now, therefore, be it resolved, the Adirondack Park Agency, in recognition of Earth Day and the International Year of Forests 2011, expresses appreciation and celebration of the significance of the Adirondack Park, its forestlands, and communities, and urges close collaboration and understanding among the Agency and public and private stakeholders in the important task of forestland management and protection and enhancement of the Adirondack Park for the benefit of its residents, visitors, the State of New York and the World.

Resolution approved by acclamation on this date, April 14, 2011.

Members Present: R. Booth, F. Mezzano, C. Stiles, W. Thomas, F. W. Valentino, C. Wray, J. Fayle (DED), E. Lowe (DEC), D. Scozzafava (DOS)



P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050

**APA Order Granting
Variance
2009-153**

Date Issued: April 20, 2011

In the Matter of the Application of

TOWN OF MORIAH

for a variances pursuant to §806 of the
Adirondack Park Agency Act

To the County Clerk: This order must be recorded on or before June 20, 2011. Please index this Order in the grantor index under the following names.

1. Town of Moriah

SUMMARY AND AUTHORIZATION

The Town of Moriah is granted a variance, on conditions, from the applicable shoreline restrictions pursuant to Section 806 of the APA Act, in an area classified Hamlet by the Official Adirondack Park Land Use and Development Plan Map in the Village of Port Henry, Town of Moriah, Essex County.

This project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the order is recorded. The Agency will consider the project in existence upon completion of at least one of the revetments/groins authorized herein.

Nothing contained in this order 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.

PROJECT LOCATION AND SITE DESCRIPTION

The project site is approximately 31± acres (including lands underwater) with approximately 2,000± feet of shoreline on Lake

Champlain in the Village of Port Henry, Town of Moriah, Essex County, in an area classified Hamlet by the Adirondack Park Land Use and Development Plan Map. It is identified on Town of Moriah Tax Map Section 107.24 Block 3 Parcels 1 and 2 and Section 97.80 Block 2 Parcel 3. The project site is described in a deed from the Village of

Port Henry to the Town of Moriah dated July 5, 1972 which was recorded on August 28, 1972 in the Essex County Clerk's Office in Liber 524 of Deeds at Page 33.

AGENCY JURISDICTION

The applicant's proposed the installation of 3 revetment/groin structures approximately 4,080, 4,110 and 4,670 square feet in size, within the mean high water mark of Lake Champlain. The structures are proposed to resolve an ongoing shoreline erosion problem that has eroded the shoreline and beach area of the Town owned campground. In addition to installation of the structures, the Town proposes to renourish/replenish the beach and shoreline area with approximately 250 cubic yards of material on an annual basis. The Agency's jurisdiction with regard to this project is limited to the § 806 shoreline variances that are required.

The variance application seeks Agency approval for variances from the applicable 50 foot shoreline structure setback restriction pursuant to § 806(1)(a)(2) and § 806(3) of the Adirondack Park Agency Act (Executive Law, Article 27) to authorize placement of structures larger than 100 square feet size (and which do not comply with the Agency regulatory definition of "dock" or "boathouse") within 50 feet of the mean high water mark of Lake Champlain. In a Hamlet land use area § 806(1)(a)(2) and 9 NYCRR Part 575 requires a minimum shoreline setback of 50 feet measured from the mean high water mark for structures greater than 100 square feet in size which are not a "Dock" or "Boathouse" as such is defined in § 570.3 of Agency regulations. Section 575.4(e) and (f) requires that a shoreline "retaining wall" larger than 200± square feet in size [as measured by the larger of either elevation (face) view or plan (top) view] is subject to the shoreline setback requirements.

Section 806(3) of the Act and 9 NYCRR Part 576 authorize procedures whereby an applicant may apply for a variance from that restriction provided certain criteria cited in the statute and regulations are complied with, as further described below.

VARIANCE DESCRIPTION AS PROPOSED

The project as proposed involves installation of 3 revetment/groin structures approximately 4,080, 4,110 and 4,670 square feet in size, within the mean high water mark of Lake Champlain. The structures are proposed to resolve an ongoing shoreline erosion problem that has eroded the shoreline and beach area of the Town owned campground. In addition to installation of the structures, the Town proposes to renourish/replenish the beach and shoreline area with approximately 250 cubic yards of material on an annual basis.

Some of the proposed improvements require variances from the § 806 shoreline restrictions.

The project is shown on 7 sheets of plans entitled "Bulwagga Bay Campground Shoreline Stabilization, Town of Moriah, New York" prepared by CLA Site dated December 23, 2008 and revised February 16, 2010. Reduced-scale copies of Plan Sheets CLA-2 and CLA-4 are attached as a part of this order for easy reference. The original, full-scale maps and plans referenced in this order are the official plans for the project.

CONDITIONS

BASED UPON THE FINDINGS BELOW AND INFORMATION CONTAINED IN THE PROJECT FILE, THE VARIANCE IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The project shall be undertaken as described in the completed application, the Variance Description as Proposed and Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the order 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 order.
2. This project may not be undertaken and no transfer deed shall be recorded until this order is recorded in the Essex County Clerk's Office. This Order shall be recorded on or before June 20, 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.

3. This order is binding on the applicant(s), all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of this order and all the approved maps and plans referred to herein shall be furnished by the applicant(s) to all contractors prior to undertaking the project, and to all subsequent owners or lessees of the project site prior to sale or lease. All deeds conveying all or a portion of the lands subject to this order shall contain references to this order as follows: "The lands conveyed are subject to Adirondack Park Agency Order 2009-153 issued April 20, 2011, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
4. 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.

Structure Location and Sizes

5. This Order authorizes the new structures and filling activities to be undertaken in the locations shown and to the dimensions described on the project plans referenced herein. Any changes to the locations, sizes, or dimensions will require a new or amended Agency Order. Within 60 days of completing each individual variance component authorized herein, a qualified design professional shall provide written certification to the Agency that the component was built/undertaken in compliance with the approved plans.

Shoreline Cutting

6. No trees in excess of 6 inches dbh shall be removed within 35 feet of the mean high water mark over any 10 year period.

This condition shall not be deemed to prevent the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.

Planting Plan

7. The vegetative plantings shall be undertaken as shown on Project Plan Sheet CLA-4 referenced herein. The approved plan shall be implemented in the spring or fall, whichever comes first, immediately following the construction of the new revetments/groins authorized herein. Any plants which do not survive or become diseased shall be replaced annually until such time as all of the plants have been established in a healthy growing condition.

Revetments/Groins

8. The dimensions and location of the revetments/groins shall be in complete accordance with the project plans authorized herein. Prior to construction/installation of the revetments/groins, final design details for the structures, including type of construction materials shall be submitted to the Agency for review and approval in the form of a letter of compliance. The revetments/groins shall not be installed until the letter of compliance is issued.

Monitoring and Reporting

9. Monitoring reports shall be prepared and submitted to the Agency to insure acceptable operation and function of the rock revetment/groin structures. Pertinent information from the application material may be used as the initial measurements with annual data to be collected upon installation of the rock revetment/rock groin structures. The monitoring reports must include (1) the volume of material taken from the spit area for renourishment or other off-site material introduced to the site for renourishment purposes (if any), (2) where the material was dispersed along the shoreline and the specific volume placed in each area, (3) changes to the shoreline configuration including the spit area resulting from either wave action, erosion or ice movement, (4) changes in the elevations along the shoreline including the entire spit area, (5) monitoring and survival rate of the vegetation introduced under this variance proposal, (6) lake level trends throughout the year, and (7) general climatic patterns and any other pertinent information necessary to evaluate the efficacy of the rock revetments/groins. The monitoring reports should include conclusions regarding whether the rock groins are effectively protecting the shoreline and the lake.

If the volume of fill required to maintain the shoreline or beach area exceeds 250 cubic yards of material for any single year then corrective measures may be required to control the on-going erosion problem. If the Agency determines corrective measures must be made the applicant will be notified and provided adequate time for their implementation.

The initial monitoring report shall be prepared and submitted to the Agency one year after construction of the proposed rock revetment/groin structures. Subsequent reports must be submitted to the Agency at both five and ten years after the initial report (years six and eleven post construction). Upon review of the third monitoring report the Agency will determine whether additional monitoring is necessary based on all reports submitted to date. The applicant may request permission to implement corrective measures at any time as deemed necessary and/or as supported by the data. Whether initiated by the applicant or the Agency, alterations to the revetment/groin structures may require an amended variance, therefore, design plans shall be submitted to the Agency prior to any construction.

Shoreline Setbacks

10. Other than those approved by the variances contained herein, all new structures 100 square feet in size or larger, (except docks and boathouses), shall be set back a minimum of 50 feet, measured horizontally, from the closest point of the mean high water mark of Lake Champlain.

Boathouses

11. No new boathouses are proposed or authorized as part of this project.

Docks

12. Docks can be constructed and shall be no wider than eight feet in width or in the case of interconnected structures intended to accommodate multiple watercraft or other authorized use, each element shall not be more than eight feet in width. The dock shall only be used for the purposes of securing and loading or unloading watercraft and for swimming or water recreation. Docks may extend into or over the lake from only that portion of the immediate shoreline

necessary to attach the floating or fixed structure to the shoreline.

Erosion and Turbidity Controls

13. Silt fencing shall be installed on the downslope edge of any disturbed upland area prior to site disturbance. The silt fence is to be maintained in a functional condition until all disturbed land is heavily vegetated.
14. Turbidity curtains shall be installed prior to commencing operations within the lake or any operation which may create turbid lake water. The turbidity curtains shall consist of an impermeable vinyl material which will have a weighted bottom and flotation at the top to keep the curtain extended vertically in the water column. The turbidity curtain shall remain in place and in a functional condition until turbidity inside the curtain no longer exceeds ambient levels.
15. All stone fill utilized in construction of the revetments/groins shall be as specified in the plans referenced herein and shall be free of sediment prior to placement in or adjacent to the lake.
16. Any temporary stockpiles of renourishment material shall be located and surrounded by silt fence or similar erosion control measures such that it will not erode into Lake Champlain.

Signage

17. All new signage on the site shall conform with the Agency's "Standards for Signs Associated with Projects" (9 NYCRR Part 570, Appendix Q-3).

Review of Future Development

18. No further land use and development, including but not limited to the disposal of waste materials, shall occur on the property without first obtaining a jurisdictional determination and, if necessary, a permit or Order from the Agency.

FINDINGS OF FACT

1. A variance of the terms of the APA Act is not personal and runs with the land. Recording of the variance order ensures notice to subsequent owners of the land.

Background/Prior History

2. The subject property was not part of a larger parcel in 1973 and the landowner at that time did not own any adjoining property as of the May 22, 1973 enactment date of the Adirondack Park Land use and Development Plan. The Village of Port Henry conveyed the property, including lands under Lake Champlain, to the Town of Moriah in 1972. A Town owned public campground has existed at the project site for approximately 38 years. The project site was originally created as a waste disposal site for the iron ore industry from the local mines and later became a campground in the 1970's. It has been operated as a campground continuously since opening.
3. The 700 foot long concrete block and rock rip-rap retaining wall on the project site was constructed during 1994. The Agency investigated the retaining wall construction as part of this project application through the Agency's enforcement division, Enforcement Case E2009-134. The retaining wall was constructed due to the fact the shoreline was being eroded and the Town Campground was losing campsites at the shoreline. The enforcement case was closed in 1994 because the structure was determined to be a non-jurisdictional retaining wall under the guidance in existence at the time.

Existing Environmental Setting/Character of the Area

4. The project site is located in a Hamlet land use area on the Adirondack Park Land Use and Development Plan Map and includes approximately 2,000 feet of shoreline on Lake Champlain (mean high water mark elevation 99.8 feet above mean sea level). There are wetlands on the site in the southwest corner of the property. The site encompasses approximately 31 acres, which includes land under water owned by the applicant pursuant to land grants originally issued in 1875. Structures on the project site include a concrete/stone retaining wall along the shoreline of Lake Champlain installed circa 1994, a gate and registration building, restrooms, a picnic pavilion, a boat launch, and approximately 175 campsites for recreational vehicles.

5. Land uses in the vicinity of the project site include: a marina, the Village of Port Henry waste water treatment plant, railroad tracks, on NYS Route 9N/22, and the shoreline and waters of Lake Champlain.
6. Due to the fact the site is a man made shoreline primarily consisting of mine tailing brought to the site, NYSDEC opined that the shoreline is not a particularly valuable resource for fish habitat. NYSDEC does not have concerns that the proposal will affect fisheries in the area.
7. In an effort to ameliorate potential visual and water quality impacts to the lake, a monitoring program **should** be established as detailed in the conditions section of this variance. Based on these monitoring reports the Agency may require improvements or corrective measures to control adverse impacts to the lake. The application material has included the applicant's intention to secure permits from the NYSDEC and USACE to allow for the annual renourishment of a maximum of 250 cubic yards of material to be taken from the spit area and distributed along the shoreline in the areas of the rock groins/revetments and the beach.

Public Notice and Comment

8. The Agency notified all landowners within 500 feet of the project site and those parties as statutorily required by 9NYCRR Part 576 and published a Notice of Variance Hearing in a local newspaper and in the Environmental Notice Bulletin. No comment letters have been received.

Public Hearing

9. On Monday, March 14, 2011 at 11:00 am at the Moriah Town Office, Agency Staff conducted a hearing pursuant to APA Act §806 and 9 NYCRR 576.5. The applicants's professional consultants and the Town Supervisor made a presentation and provided testimony on behalf of the applicant. In addition to the applicant, Agency and NYSDEC staff and hearing participants, 9 members of the public attended the hearing. One person and the Town of Moriah Supervisor offered comments. The individual who spoke was in support of the project because it is an essential economic benefit to the Town of Moriah and its residents. The Supervisor emphasized the importance of the beach and campground to the Town of Moriah.

The points made included:

- The Village of Port Henry was originally a port

where iron ore was loaded on boats and barges.

- The project site is not a natural or pristine shoreline, it was and still is an old industrial site.
- Trains still run right by the site.
- Most of the land at the site is composed of mine tailings and spoils.
- This shoreline stabilization project is key to preserving the Town of Moriah beach and campground and future development for the Town of Moriah.

Other Regulatory Permits and Approvals

10. On March 23, 2011, New York State Department of Environmental Conservation (DEC) issued Article 15 and Water Quality Certification permits.
11. The Village of Port Henry Board of Trustees unanimously approved the Site Plan Review Application for the Town of Moriah Shoreline Stabilization Project at the Bulwagga Bay Campground. This project was approved by a five to zero vote in favor, at the July 13, 2009 Board meeting. The Supervisor of the Town of Moriah has issued statements supporting the proposal.
12. Approval from the Army Corps of Engineers is also required and applications have been submitted. Public Notice was issued by the US Army Corps of Engineers March 29, 2011 stating that the application is complete, and established a public comment period scheduled to end on April 29, 2011.
13. New York State Department of Health reviewed the plans in regard to modifications to the public beach and a revised beach plan will be prepared and reviewed by NYSDOH.
14. In response to a September 29, 2009 NYSDEC Notice of Availability for Review New York State Office of General Services responded on October 21, 2009 that "The project area appears to be in a granted area - No OGS Jurisdiction". However, by letter to the USACE dated April 4, 2011 New York State Office of General Services determined that a review of their records shows that the proposed project may be located both upon lands under water that were previously granted, and upon State-owned lands under water. OGS stated that if the project is reviewed favorably by the involved Federal and State Agencies, an application for the use of State-owned Submerged Lands will be required from the applicant. The applicant should

incorporate the location of the historic grant boundaries (survey) on their project plans.

Economic/Fiscal Factors

15. The campground produces approximately \$260,000 to \$280,000 in revenue for the Town of Moriah annually. While the profits from the campground vary, there was approximately \$140,000 in income to the Town, after expenses, in 2010. (There were some unexpected equipment expenses during 2010). During the months of operation of the campground the Town contracts with a campground manager and employs 2 part time and 2 full time maintenance people and 3 lifeguards. There are other expenses such as insurance, garbage pick-up, electric, water and sewer charges for the facilities on the campground and vehicle fuel and maintenance. The Town of Moriah has stated that the shoreline stabilization project is an important project that will provide vital economic benefits to the area. The Town of Moriah Supervisor stated at the hearing that this shoreline stabilization project is key to lakefront development and future development for the Town of Moriah. It is anticipated that the Town owned campground will continue to provide local jobs and will also stimulate other economic activity in the Town of Moriah and the Village of Port Henry.

VARIANCE IMPACTS AND CRITERIA

Legal Issues

16. In determining if practical difficulty exists, and if granting a variance is appropriate under these circumstances, the Agency must consider whether the adverse consequences from denial of this request would outweigh the protection of shorelines and water quality in the Park. The Agency must consider the following six variance factors pursuant to Section 576.1(c) of Agency Regulations:

- a) Whether the application requests the minimum relief necessary

Eight alternatives were evaluated in order to determine whether the proposed variance request seeks the minimum relief necessary:

- Revetments and annual renourishment (Preferred Alternative)
- Gabion Armored Shore and Relocated Beach
- Rip-Rap Armored Shore and Relocated Beach

- Noncontinuous Rip-Rap
- Rip-Rap Revetments
- Shoreline Stabilization by Vegetation
- Beach Closure
- Shoreline stabilization by renourishment alone
(no variance required)

The preferred alternative calls for shoreline stabilization by installing a series of short revetment/groin structures along the shoreline combined with an annual program of beach renourishment with material taken from downshore on the project site. The goal of the project will be to protect the shoreline from the aggressive erosion mechanisms associated with ice and high lake level wave action experienced at the site. The proposed design by the Town's coastal hazard engineer establishes an elevation of 100.5 feet above mean sea level for the revetment structures in order to effectively control the erosion resulting from wave action and ice movements. Due to the historic patterns of beach loss, it is anticipated that annual renourishment still would be required each year to provide ample protection to upland infrastructure and a usable public beach and campground area. While not completely preventing these types of shoreline impacts, the design will reduce the rate of sand migration along the shoreline.

The consultant estimates erosion will be reduced by 50% to 75% of the current rate of loss. It is estimated that since 2002, the year the Town ceased the beach renourishment program, the current annual loss of material is approximately 550 cubic yards per year. In order to restore the beach to its pre-2002 condition, it is estimated that a total of 4,300 cubic yards would be required to reestablish the area. The proposed project involves the construction of three revetment/groin structures and the placement of only approximately 3,500 cubic yards of material because the design is not intended to fully restore the beach to its original shoreline and grade alignment. The applicant's consultant believes that with installation of the revetment/groins, less initial filling with renourishment material would be required versus a proposal relying on renourishment alone.

It is estimated this proposal will limit sand loss to less than 250 cubic yards a year and may require as little as 150 cubic yards from on-site sources to maintain the beach area. This proposal would return to the 150 cubic yard level of renourishment experienced before 2002, according

to Town records. This alternative includes a program permitted by NYSDEC and USACE allowing excavation of material by Town personnel and equipment from the southern point (spit) and using it as renourishment material along the east shoreline during low lake level conditions. This would be significantly less expensive than obtaining material from off-site sources.

It is the applicant's opinion that the construction of the beach revetment and the two additional hybrid revetment/groin structures, supplemented by the annual renourishment of the beach area, will provide the necessary shoreline stabilization to ensure the continued long term operation of the Town's beach and campground. The Town and its consultants believe the proposed structures constitute the minimum relief necessary to protect the beach area, adjacent campground area and infrastructure from the significant shoreline erosion occurring on the project site. The proposed design will also achieve several other important objectives, including the reduction of initial construction and annual renourishment costs, maintenance of the public beach and water access from various points along the shoreline and reduction of earth disturbance in the area of the spit on an annual basis. This proposal also avoids the expense involved in relocating and reconstructing the existing beach and campground facilities to other locations on the project site.

Six other alternatives requiring an Adirondack Park Agency variance and one non-jurisdictional alternative were also evaluated as part of the record. The applicants testified that in their consultant's opinion the other alternatives are not viable because they are too costly to construct, would not protect the shoreline as required, require greater cost to maintain on an annual basis, or did not meet the objectives of the applicant (i.e. do not allow continued public access to the waterfront).

b) Whether granting the variance will create a substantial detriment to adjoining or nearby landowners -

The adjoining and nearby landowners include the Village of Port Henry wastewater treatment plant, Van Slooten's Marina, the D&H Railway, and several private landowners. The variance site is already partially hardened with a 700 foot-long concrete block and shot-rock revetment wall and associated beach and campground facilities. It is the applicant's opinion the proposed new revetment and modified revetments, with landscaping, will be less visually intrusive

than the existing hardened concrete and shot-rock shoreline protection on the project site to the north. The revetments which will be partially submerged during most of the year will not be visible from adjoining parcels of land, except for the occasional boater along the shoreline. The proposed vegetation along the project site will also improve the shoreline aesthetics of the project site and be more aesthetically pleasing to nearby landowners if properly maintained.

There will be no substantial detriment to adjoining or nearby landowners if appropriate construction mitigation practices and post-construction monitoring practices are in place according to variance conditions.

c) Whether the difficulty can be obviated by a feasible method other than a variance -

With regard to shoreline stabilization by renourishment alone, this non-jurisdictional concept calls for the stabilization of the east shoreline by annual renourishment only and would not require a variance. However, permits from the NYS DEC and USACE would still be required under this option.

According to the Town's engineering consultants, and as discussed in the record, the high construction and annual maintenance costs associated with this option make it highly undesirable. This option would likely require the regular relocation and burying of water and electric lines. Existing mature shoreline vegetation would likely continue to be lost and the reestablishment of such vegetation would be problematic if not impossible. Consequently, it is the Town's opinion that annual re-nourishment alone is not a viable option. Additionally, the NYSDEC and USACE have not supported this option since it does not provide a long-term solution to the ongoing shoreline erosion problem.

d) The manner in which the difficulty arose -

The erosion problems at the project site have been intensified by the high erodibility of the mine tailings placed on the site during the early to mid 1900's. The absence of any large boulders or bedrock, the general lack of organic material in the soil and the related lack of vegetation combine as important factors to reduce the shoreline's resistance to the Lake's natural erosive forces.

The difficulty arose in part when the Town in 1994 installed a 700 foot-long concrete block and rock rip-rap retaining wall along the shoreline immediately north of the proposed project, resulting in the transfer of the erosion problem further down the shoreline

e) Whether granting the variance will adversely affect existing resources -

It is the applicant's opinion that the requested variance would not adversely affect the natural and scenic resources of the shoreline, the adjoining water body or otherwise result in any undue adverse environmental impacts. This opinion is based on their assessment of the aesthetic improvements provided by the low profile revetment design and related plantings and the relatively modest amount of annual renourishment anticipated after the development of the project.

f) Whether the imposition of conditions upon the granting of the variance will ameliorate the adverse effects noted above

During the hearing, the applicant acknowledged that, if the respective approvals are granted, they will accept the necessary conditions of approval from the Adirondack Park Agency, NYSDEC and USACE.

Agency staff generally agree that the project will likely not have adverse impacts to the water quality of Lake Champlain or the aesthetics of the shoreline, provided adequate conditions are in place, including: provisions for erosion control during construction; limited length and proper timing of the construction project; use of clean, sediment-free stone for the revetments/groins and shoreline interface structures; commitments for the establishment of the plantings and landscaping as provided on the project plans; and the establishment of a long-term monitoring program of the shoreline for potential resource impacts. The monitoring program will be structured to gather data on the "spit" area which the applicant has stated is outside of the zone of protection for this project. Results from the monitoring program may precipitate changes to the configuration of the shoreline structures, their size, number, or elevation, should the data identify any unanticipated adverse impacts in the future.

17. Practical difficulty exists in carrying out the strict letter of the shoreline restrictions based on the record for this variance, because the shoreline erosion along the established

publicly owned campground, public beach and other amenities located along the shoreline of Bulwagga Bay cannot be comprehensively arrested under a long term plan without erosion control structures located at the shoreline.

In addition, the adverse consequences of denial of the variance outweigh the public purpose served by the shoreline restrictions because denial would severely limit the ability of the Town to fully restore the campground shoreline and public beach, a source of recreation to the public and a source of income to the Town, and result in continued shoreline erosion and visual impacts.

Historic Sites or Structures

18. The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) issued a letter dated July 8, 2010 which determined the proposed project would have "No Effect" upon cultural resources in or eligible for inclusion in the 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

1. There are practical difficulties carrying out the strict letter of the shoreline setback restriction set forth in § 806 of the Adirondack Park Agency Act and 9 NYCRR Part 575, in that:
 - a. the application requests the minimum relief necessary;
 - b. there will be no substantial detriment to adjacent or nearby landowners;
 - c. the difficulty cannot be obviated by a feasible method other than the variance;
 - d. the difficulty arose due to the applicant's need as a matter of function and safety to have shoreline stabilization structures located at and within the mean high water mark of the lake and to have structures of a larger size/width than those exempt from the shoreline setback requirements;
 - e. the granting of the variance will not adversely affect the natural and scenic resources of the shoreline and

adjoining waterbody due to erosion, surface runoff, subsurface sewage effluent, detrimental change in aesthetic character, or other impacts which would not otherwise occur;

- f. the imposition of appropriate conditions will ameliorate any adverse effects; and,
- g. the adverse consequences to the applicant resulting from denial are greater than the public purpose sought to be served by the restrictions.

2. The variance, pursuant to §806 of the Adirondack Park Agency Act, 9 NYCRR Part 576 observes the spirit of the Act, secures public safety and welfare, and does substantial justice.

ORDER issued this day
of , 2011.

ADIRONDACK PARK AGENCY

BY: _____
Holly E. Kneeshaw, Assistant
Deputy Director, Regulatory
Programs

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

On the day of in the year 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Holly E. Kneeshaw personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

HEK:TES:MJG:GAB:mlr



P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050

**APA Project Permit
2010-298**

Date Issued: April 20, 2011

In the Matter of the Application of

HEARTWOOD FORESTLAND FUND III, LP

for a permit pursuant to section 809 of
the APA Act and 9 NYCRR Parts 577
and 578

To the County Clerk: This permit
must be recorded on or before
June 20, 2011. Please index this
permit in the grantor index
under the following names:
Heartwood Forestland Fund III, LP

SUMMARY AND AUTHORIZATION

Heartwood Forestland Fund III, LP ("Heartwood") is granted a permit, on conditions, authorizing (i) modification of APA Permit 98-313 to include Heartwood's proposal to retain up to 220 hunting club camps (constituting "hunting and fishing cabins" under the APA Act and regulations) on its approximately 110,000 acre landholding consisting of portions of the former "Champion lands"; (ii) approval after-the-fact for thirty-three existing hunting cabins requiring an Agency permit; and (iii) modification of timber management parcel "S-4" (authorized by Permit 98-313 as 4,655 acres) to allow conveyance of an approximately 2,145 acre portion. The landholding in question consists of three large, geographically separate tracts of land located in areas classified Resource Management and Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Towns of Duane, Santa Clara and Waverly, Franklin County; Towns of Clare, Clifton and Hopkinton, St. Lawrence County; and Towns of Croghan and Watson, Lewis County.

The prospective portion of this project may not be undertaken, and no transfer deed shall be recorded, until this permit is

recorded in the Franklin, St. Lawrence and Lewis County Clerk's Offices. This permit shall expire unless so recorded on or before June 20, 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 project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit is recorded. The Agency will consider the project in existence upon conveyance of the 2,145 acre parcel.

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.

AGENCY JURISDICTION

This project consists of a proposal to modify a portion of the project approved by Permit 98-313, which modification has been determined to constitute a material change requiring a new permit pursuant to §809(8)(b)(2) of the Adirondack Park Agency Act (Executive Law, Article 27), with various portions of the project constituting Class A and B Regional, Wetlands and Rivers projects. Specifically, the project includes changes to (i) Finding of Fact 7 and Condition 1 of the permit to acknowledge that hunting and fishing cabins are to remain indefinitely on the lands now owned by Heartwood and (ii) the size and boundaries of timber management parcel S-4 (listed in the chart in Finding of Fact 7 on page 11), which revisions also require a determination by the Agency as to consistency with Permit 98-313 pursuant to Condition 3 of that permit. This project also includes an application seeking Agency approval after-the-fact for thirty-three hunting and fishing cabins constituting (i) Class B regional projects requiring an Agency permit pursuant to §810(2)(d)(4) and (12) of the Act; (ii) Class A regional projects requiring an Agency permit pursuant to §810(1)(e)(1)(e) (location in highway travel corridor); (iii) a rivers project requiring an Agency permit pursuant to the NYS Wild, Scenic and Recreational Rivers System Act (ECL, Art. 15, Title 27) and 9 NYCRR 577.4(a) and 577.5(c)(1) (location in river area); and (iv) a regulated activity requiring a wetlands permit (graywater systems within 100 feet of wetlands) pursuant to the NYS Freshwater Wetlands Act (ECL, Art. 24) and 9 NYCRR 578.2 and 578.3(n)(1)(i) or (2)(ii).

PROJECT SITE

The project site is an approximately 110,000 acre landholding consisting of three geographically separate tracts of land

located in the Towns of Duane, Santa Clara and Waverly, Franklin County; Towns of Clare, Clifton and Hopkinton, St. Lawrence County; and Towns of Croghan and Watson, Lewis County in areas classified Rural Use and Resource Management by the Adirondack Park Land Use and Development Plan Map. The project site is described in the following deeds:

Deed from The Conservation Fund to Heartwood Forestland Fund III, LP dated June 30, 1999 recorded July 1, 1999 in the Franklin County Clerk's Office in Liber 726 of Deeds at Pages 251-323;

Deed from The Conservation Fund to Heartwood Forestland Fund III, LP dated June 30, 1999 recorded July 1, 1999 in the Lewis County Clerk's Office in Liber 643 at Pages 267-301; and

Deed from The Conservation Fund to Heartwood Forestland Fund III, LP dated June 30, 1999 recorded July 1, 1999 in the St. Lawrence County Clerk's Office containing Instrument ID # 1999-00013121.

The applicant has advised the project site is identified by the following tax map designations:

<u>County</u>	<u>Town</u>	<u>MapNumber</u>	<u>Acres</u>	<u>School Dist</u>	<u>Description</u>	<u>Notes:</u>
Franklin	Duane	259.-1-1	6,950.00	Malone Central	Champion	
Franklin	Santa Clara	210.-1-1	19,043.00	St. Regis Falls	Red Tavern/ RT 458	uncertain location
Franklin	Santa Clara	213.-2-1	8,256.00	St. Regis Falls	RT 458	
Franklin	Santa Clara	240.4-3-3.1	8.40	St. Regis Falls	RR Ave.	Not part of easement
Franklin	Santa Clara	240.4-4-4	0.77	St. Regis Falls	Railroad Ave.	Not part of easement
Franklin	Santa Clara	240.4-4-9	1.32	St. Regis Falls	Fraser Ave.	Not part of easement
Franklin	Santa Clara	241.3-1-3	1.03	St. Regis Falls	Red Ave.	Not part of easement
Franklin	Santa Clara	241.3-1-5	3.26	St. Regis Falls	Red Ave.	Not part of easement
Franklin	Santa Clara	241.3-1-6	1.15	St. Regis Falls	Red Ave.	Not part of easement
Franklin	Santa Clara	255.2.-1-5	0.50	St. Regis Falls	Fraser Ave.	Not part of easement
Franklin	Santa Clara	255.2-2-2	0.17	St. Regis Falls	Railroad Ave.	Not part of easement
Franklin	Santa Clara	255.2-4-1	0.20	St. Regis Falls	Mill St.	Not part of easement
Franklin	Santa Clara	303.-1-1	6,216.00	Saranac Lake	Forestland	

Franklin	Waverly	238.-1-13	341.67	St. Regis Falls	Dexter Outlet	added 2010 - replaces #224.-9-1
Franklin	Waverly	253.-1-24	5,496.69	St. Regis Falls	Lake Ozonia, east of	added 2010 - replaces #224.-9-1
Franklin	Waverly	255.-2-44	307.48	St. Regis Falls	Dexter Rd., north of	added 2010 - replaces #224.-9-1
Franklin	Waverly	270.-1-15	1,716.50	St. Regis Falls	Dexter Rd., south of	added 2010 - replaces #224.-9-1
Franklin	Waverly	300.-1-1	2,968.99	St. Regis Falls	Blue Mountain Rd.	added 2010 - replaces #224.-9-1
Franklin	Waverly	313.-1-2	53.74	St. Regis Falls	Train Pond	added 2010 - replaces #224.-9-1
Franklin	Waverly	329.-1-1	8,731.27	St. Regis Falls	TWP 13	added 2010 - replaces #224.-9-1
Franklin	Waverly	313.-1-1.1	0.01	St. Regis Falls	Azure Mountain Camps	Camp
Franklin	Waverly	313.-1-1.1	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.101	-	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.11	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.12	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.13	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.14	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.140	-	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.141	-	St. Regis Falls	Blue Mt Rd	Camp
Franklin	Waverly	313.-1-1.15	-	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.16	-	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.17	-	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.18	-	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.19	-	St. Regis Falls	Club 30 Camp #226	Camp
Franklin	Waverly	313.-1-1.2	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.21	-	St. Regis Falls	Sunbeam Park Main Camp	Camp
Franklin	Waverly	313.-1-1.22	-	St. Regis Falls	Sunbeam Park Guide Camp	Camp
Franklin	Waverly	313.-1-1.23	-	St. Regis Falls	Sunbeam Park Cook Camp	Camp
Franklin	Waverly	313.-1-1.24	-	St. Regis Falls	Sunbeam Park Power House	Camp
Franklin	Waverly	313.-1-1.25	-	St. Regis Falls	Sunbeam Park Guard Camp	Camp
Franklin	Waverly	313.-1-	-	St. Regis Falls	Sunbeam Park Garage #06	Camp

		1.26	-			
Franklin	Waverly	313.-1-1.27	-	St. Regis Falls	Sunbeam Park Garage #05	Camp
Franklin	Waverly	313.-1-1.29	-	St. Regis Falls	East Brook Club Camp #212	Camp
Franklin	Waverly	313.-1-1.3	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.30	-	St. Regis Falls	East Brook Club Camp #213	Camp
Franklin	Waverly	313.-1-1.31	-	St. Regis Falls	East Brook Club Camp #223	Camp
Franklin	Waverly	313.-1-1.32	-	St. Regis Falls	East Brook Club Camp #215	Camp
Franklin	Waverly	313.-1-1.33	-	St. Regis Falls	East Brook Club Camp #216	Camp
Franklin	Waverly	313.-1-1.34	-	St. Regis Falls	East Brook Club Camp #217	Camp
Franklin	Waverly	313.-1-1.35	-	St. Regis Falls	East Brook Club Camp #214	Camp
Franklin	Waverly	313.-1-1.36	-	St. Regis Falls	East Brook Club Camp #220	Camp
Franklin	Waverly	313.-1-1.37	-	St. Regis Falls	East Brook Club Camp #221	Camp
Franklin	Waverly	313.-1-1.38	-	St. Regis Falls	East Brook Club Camp 219	Camp
Franklin	Waverly	313.-1-1.39	-	St. Regis Falls	East Brook Club Camp #222	Camp
Franklin	Waverly	313.-1-1.4	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.41	-	St. Regis Falls	Lake Ozonia Road Camp #225	Camp
Franklin	Waverly	313.-1-1.42	-	St. Regis Falls	River Camp	Camp
Franklin	Waverly	313.-1-1.43	-	St. Regis Falls	Beaver Pond Club Camp #201	Camp
Franklin	Waverly	313.-1-1.44	-	St. Regis Falls	Beaver Pond Club Camp 202	Camp
Franklin	Waverly	313.-1-1.45	-	St. Regis Falls	Camp #202	Camp
Franklin	Waverly	313.-1-1.47	-	St. Regis Falls	3 Wilcox Camp #203	Camp
Franklin	Waverly	313.-1-1.48	-	St. Regis Falls	Azure Mountain Clubs	Camp
Franklin	Waverly	313.-1-1.49	-	St. Regis Falls	Azure Mountain Clubs	Camp
Franklin	Waverly	313.-1-1.5	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.5	-	St. Regis Falls	East Brook Club	Camp
Franklin	Waverly	313.-1-1.51	-	St. Regis Falls	Benz Pond Club	Camp
Franklin	Waverly	313.-1-1.52	-	St. Regis Falls	Benz Pond Club	Camp
Franklin	Waverly	313.-1-1.53	-	St. Regis Falls	Benz Pond Club	Camp

Franklin	Waverly	313.-1-1.54	-	St. Regis Falls	Benz Pond Club	Camp
Franklin	Waverly	313.-1-1.55	-	St. Regis Falls	Benz Pond Club	Camp
Franklin	Waverly	313.-1-1.56	-	St. Regis Falls	Benz Pond Club	Camp
Franklin	Waverly	313.-1-1.57	-	St. Regis Falls	Benz Pond Club	Camp
Franklin	Waverly	313.-1-1.58	-	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.59	-	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.6	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.6	-	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.7	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.8	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-1.9	0.01	St. Regis Falls	Waverly	Camp
Franklin	Waverly	313.-1-54	0.10	St. Regis Falls	Jocks Road	Camp
Franklin	Waverly	330.-1-1.1	-	St. Regis Falls	Waverly	Camp
Lewis	Crogan	119.-2-1.200	6.30	Beaver River	S SI Soft Maple Reservoir	
Lewis	Watson	105-1-1	264.80	Beaver River	N of Soft Maple Reservoir	
Lewis	Watson	106-1-1	439.40	Beaver River	S of Roaring Brook	
Lewis	Watson	106-1-2.1	3,903.10	Beaver River	N of Beaver River	
Lewis	Watson	119-3-3	31.70	Beaver River	E Side Soft Maple Reservoir	
Lewis	Watson	119-3-4.2	68.20	Beaver River	S SI Soft Maple Reservoir	
Lewis	Watson	119-3-5.1	68.30	Beaver River	S SI Soft Maple Reservoir	
Lewis	Watson	119-3-6.2	68.20	Beaver River	S SI Soft Maple Reservoir	
Lewis	Watson	119-3-7.2	79.30	Beaver River	S SI Soft Maple Reservoir	
Lewis	Watson	119-3-8.1	117.10	Beaver River	S SI Soft Maple Reservoir	
Lewis	Watson	120-1-1.1	44.60	Beaver River	S of Beaver River	
Lewis	Watson	120-1-1.2	11.90	Beaver River	S of Beaver River	
Lewis	Watson	120-1-3	2.50	Beaver River	S of Beaver River	
Lewis	Watson	133-1-1	90.10	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-10		Beaver River	N of Co RT 26	

			83.10			
Lewis	Watson	133-1-11	118.10	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-12	75.90	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-13	101.60	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-14	116.60	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-15	119.20	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-17	117.20	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-18	102.40	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-19	76.10	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-2	100.60	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-20	116.80	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-21	123.90	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-3	118.40	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-4	120.30	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-5	119.70	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-6	116.90	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-7	100.10	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-8	75.50	Beaver River	N of Co RT 26	
Lewis	Watson	133-1-9	127.10	Beaver River	N of Co RT 26	
Lewis	Watson	82-1-2	140.70	Beaver River	W Side County Line	
Lewis	Watson	93-1-1.1	464.80	Beaver River	N & S SI Fish Creek	
Lewis	Watson	93-1-2.1	291.10	Beaver River	N & S SI Fish Creek	
Lewis	Watson	93-1-4.1	494.40	Beaver River	N & S SI Roaring Brook	
St. Lawrence	Clare	178-1-6.1	1,686.30	Edward Knox	Lake George Road	
St. Lawrence	Clare	178-1-6.3	4,036.60	Edward Knox	Tooley Pond Road	
St. Lawrence	Clare	178-2-1	159.00	Edward Knox	Tooley Pond Road	
St. Lawrence	Clare	191-1-1.1	6,844.30	Edward Knox	Tooley Pond Road	
St. Lawrence	Clare	191-2-1	2,895.10	Edward Knox	Tooley Pond Road	

St. Lawrence	Clare	192-1-1.1	2,061.30	Edward Knox	Tooley Pond Road	
St. Lawrence	Clifton	192-2-1.1	1,332.40	Clifton-Fine	Grasse Riv	
St. Lawrence	Clifton	192-2-1.3	5,071.70	Clifton-Fine	Off Tooley Pond	
St. Lawrence	Hopkinton	108.-1-2	7,589.00	St. Regis Falls	Riverdale Township	
St. Lawrence	Hopkinton	68.004-2-12	26.40	St. Regis Falls	Off SH 458	
St. Lawrence	Hopkinton	68.004-2-14	267.70	Parishville-Hopkinton Central	Off Hariman Rd.	
St. Lawrence	Hopkinton	80.002-1-14	363.60	St. Regis Falls	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.002-1-5	437.40	St. Regis Falls	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.002-1-6	197.70	St. Regis Falls	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.002-1-7	45.50	Parishville-Hopkinton Central	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.002-1-8	224.10	Parishville-Hopkinton Central	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.002-1-9	86.10	Parishville-Hopkinton Central	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.003-2-7	259.30	Parishville-Hopkinton Central	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.004-1-1	207.70	Parishville-Hopkinton Central	Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.004-1-13	208.90	St. Regis Falls	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.004-1-2	976.20	St. Regis Falls	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.004-1-3	73.10	St. Regis Falls	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.004-1-4	146.40	St. Regis Falls	Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.004-1-6	69.50	St. Regis Falls	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.004-1-8	91.60	St. Regis Falls	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	80.004-1-9	118.70	St. Regis Falls	Off Meacham Rd.	
St. Lawrence	Hopkinton	94.001-1-19	393.10	Parishville-Hopkinton Central	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	94.001-1-20	664.90	Parishville-Hopkinton Central	Lake Ozonia Rd.	
St. Lawrence	Hopkinton	94.002-2-1	55.90	St. Regis Falls	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	94.004-1-1	580.80	Parishville-Hopkinton Central	Off Lake Ozonia Rd.	
St. Lawrence	Hopkinton	94.004-1-2	137.40	Parishville-Hopkinton Central	Off Lake Ozonia Rd.	

The project site is owned by Heartwood Forestland Fund III, LP (hereafter, "Heartwood" or "HFF"), a North Carolina Limited Partnership and the project sponsor for this project. Heartwood's landholding consists of "working forest" lands totaling approximately 110,000 acres, which lands are also subject to three Conservation Easements held by the People of the State of New York acting by and through the Commissioner of the NYS Department of Environmental Conservation.

PROJECT DESCRIPTION AS PROPOSED

The project as proposed is summarized as follows:

- Proposal for Modification of Permit 98-313 to Include Retention of up to 220 hunt club camps ("hunting and fishing cabins") on Conservation Easement lands Heartwood, as applicant and record owner of the subject lands, seeks to modify Agency Permit 98-313 by changing the portion of Finding of Fact 7 (page 12, second full paragraph) which presently describes the 1999 proposal for lease termination and removal of all hunt club camps located on the Easement lands (referred to as a portion of the former "Champion lands") consisting of three large tracts totaling approximately 110,000 acs located in the Towns of Duane, Santa Clara and Waverly, Franklin County; Towns of Clare, Clifton and Hopkinton, St. Lawrence County; and Towns of Croghan and Watson, Lewis County). Leases were proposed to terminate by the end of a fifteen year period (2014) and camps on Easement lands were to be removed within three years after that (2017). Instead of removing the camps, Heartwood now seeks authorization for an amended proposal whereby up to 220 camps would remain permanently on the Easement lands, with a one acre exclusive use zone to be associated with each camp. (At present there are 208 existing camps on the project site and Heartwood seeks to add up to 12 additional ones over time, to result in a total of 220 camps. Also, certain existing camps are proposed to be relocated from their existing sites to new sites.) Camps are subject to existing short-term license agreements between Heartwood and various hunt clubs, and are intended to be designed and used so as to continue to constitute "hunting and fishing cabins" under the APA Act and regulations. While a majority of camps are either preexisting or less than 500 sq ft in size and did not trigger APA permit jurisdiction, certain camps exceeded that size or were expanded by more than 25%, or due to their location in critical environmental areas or river areas required Agency review.
- Applicant seeks APA approval after-the-fact for 33 existing camps requiring same Applicant seeks APA approval after-

the-fact for 33 existing hunt club camps, most of which triggered permit jurisdiction due to their status as post-August 1, 1973 greater than 500 sq ft hunting and fishing cabins (section 810(2)(d)[4] of the APA Act) or greater-than-25% expansions of same (sections 810(2)(d)(4) and 12) and some due to their location in a critical environmental area (highway corridor) [section 810(1)(e) or (d)] or river area (9 NYCRR 577.5), all as listed in the Modified Settlement Agreement for E99-025 dated December 2, 2010. The camps for which after-the-fact approval is sought and which are approved by this permit are:

Azure Mountain Club 238, 240, 243 and 254;
Benz Pond Club 94, 97, 227, 228, 231, 234, 235 and LeBoeuf Hill;
Buckhorn Mountain Club 1;
Everton Fish & Game Club 71, 91 and 92;
Furnace Mountain Club 1;
Mile Brook Club 101, 102, 103, 106, unknown # (barn roof);
Ozone Club 2;
Quebec Brook Club 18, 24, and 25;
Silver Mine Club 1;
Stony Brook Club 6, 42, 45 and 46;
Triangle Club 1;
Wonder Club 1

Also, since Heartwood wants to be able to add, over time, up to 12 additional hunt club camps to the 208 existing camps (for an eventual total of 220 camps), this permit also addresses a process for the Agency to determine that those 12 future camps (and any relocations of camps) do not independently trigger permit requirements, or if a permit is required, to process an application for same.

- Modification of previously approved parcel known as forestry management tract S-4 Applicant seeks to modify the previous authorization in Permit 98-313 for a 4,655± acre S-4 forestry management tract parcel to allow conveyance to the State of an easterly 2,145± ac portion (northeast of Deer River, Towns of Santa Clara and Duane) while retaining the remaining 2,510± acres;
- Modified Settlement Agreement The applicant's proposal also involves remediation of various items of noncompliance identified in the recently signed December 2, 2010 Revised Agreement With Respect to Violations (E99-025) related to certain of approximately 45 hunt club camp sites, including (i) seeking after-the-fact approval for 33 camps and (ii) completion of various remediation described in that revised settlement agreement. Compliance with that agreement will be treated separately in accordance with the terms set forth in that agreement. The 2010 agreement modified an earlier 1999 Settlement Agreement between Champion

International Corporation, Champion Realty Corporation, The Forestland Group, LLC, DEC and APA.

The landholding and hunt club camp locations are shown on three maps entitled (i) "Land of Heartwood Forestland Fund III, Limited Partnership, Champion Ownership, Santa Clara Tract, Camp Envelope Access Map" prepared by LandVest, dated January, 2011 and received at Agency offices January 26, 2011; (ii) "Land of Heartwood Forestland Fund III, Limited Partnership, Champion Ownership, Tooley Pond Tract, Camp Envelope Access Map" prepared by LandVest, dated January, 2011 and received at Agency offices January 26, 2011; and (iii) "Land of Heartwood Forestland Fund III, Limited Partnership, Champion Ownership, Croghan and Texas Road Tracts, Camp Envelope Access Map" prepared by LandVest, dated January, 2011 and received at Agency offices January 26, 2011. Reduced scale copies of the maps are 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. Also, a spreadsheet entitled "Current Status of Camp Compliance - All Camps, TFG Camp Data Spreadsheet" received 8/27/10 prepared by LandVest lists all existing hunt club camps (alphabetically by hunt club name with camp number) including camp construction date, square footage and status of compliance with various restrictions; it is included in the project file. In addition, the project file contains five three-ring binders submitted by LandVest containing a database including photographs, inspection reports and locator maps for each of the existing 208 camps, as well as a copy of the December 2, 2010 revised settlement agreement.

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(s), 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 licensees of the project site prior to sale or

license, and by the applicant or any subsequent owner or licensee 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 Permits 98-313 and 2010-298 issued April 20, 2011, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

Conditions in Permit 98-313

3. All Conditions contained in Permit 98-313 issued on June 28, 1999 shall remain in full force and effect and shall be complied with in addition to the Conditions set forth below. (In case of conflict, the Conditions in this permit control.)
4. 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.

Accessory Uses and Structures

5. Accessory structures (except guest cottages and boathouses) may be constructed without an amendment to this permit, provided they are associated with existing hunting and fishing cabins described herein, are located within the one acre privacy areas associated with each cabin and otherwise comply with the definition of accessory structure in section 802(5) of the APA Act.

Outdoor Lighting

6. Any new free-standing and building mounted outdoor lights 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 water bodies or courses, highways or adjoining property. The intent is to reduce nighttime light pollution (glare, light trespass and sky glow).

Wetlands

7. 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.

Wastewater Treatment

8. The thirty-three hunting and fishing cabins authorized after-the-fact by this permit shall not be served by conventional household septic systems including a toilet and blackwater leaching facility and such cabins shall not contain pressurized plumbing. The cabins may be served by a sanitary pit privy (outhouse) and a sink graywater leaching system. In lieu of or in addition to a pit privy, hunting and fishing cabins may also employ a non-leaching composting toilet, chemical toilet, incinerator toilet or other approved non-waterborne system.

Visual/Open Space Protection

9. Within individual camp one-acre privacy areas for existing camps, no trees, shrubs or other woody-stemmed vegetation located within (i) 300 ft of the edge of state highway rights-of-way in Resource Management or (ii) 150 ft of the edge of state highway rights-of-way in Rural Use may be cut, culled, trimmed, pruned or otherwise removed or disturbed except for an area not to exceed 25 feet in width for driveway construction and utility installations or for cutting allowed pursuant to Agency permit amendment. This condition shall not be deemed to prevent the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.

Shoreline Cutting

10. With regard to the shoreline of all lakes and ponds and navigable rivers or streams, the following minimum shoreline vegetative cutting restrictions shall apply:
 - a. within 35 feet of the mean high water mark, not more than 30% of trees in excess of six inches diameter at breast height shall be removed over any 10-year period;
 - b. within 6 feet of the mean high water mark, no vegetation shall be removed, except that up to a maximum of 30% of the shorefront may be cleared of

vegetation on any individual lot;

- c. in addition to compliance with the above statutory vegetative removal limitations, between individual hunting and fishing cabins and shorelines of those lakes, ponds and navigable rivers and streams visible from the cabins, vegetative removal shall be limited to selective tree removal and shall be undertaken in such a way (i) so as to ensure that the cabin continues to blend into the natural forested character of the landscape; (ii) so as to avoid creating new, unimpeded, panoramic views of the waterbody or course as viewed from the cabin; and (iii) where the cabin is visible from the waterbody or course, so as to create only filtered views of same.

This condition shall not be deemed to prevent the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.

Wild, Scenic and Recreational Rivers Special Provisions

11. With respect to any private land portions of the river areas (within $\frac{1}{4}$ mile from each river bank) extending onto the project site involving the following designated rivers: Deer River, East Branch St. Regis River, Main Branch St. Regis River, Long Pond Outlet, South Branch Grasse River and West Branch Oswegatchie River, the following additional restrictions apply: Inside and within 100 feet of the mean high water mark the rivers, no trees or other vegetation shall be harvested, cut, culled, removed, thinned or otherwise disturbed without prior Agency review and approval. Forest management activities located in the area between 100 feet from the mean high water mark and the one-quarter mile river area boundary shall meet the standards and conditions of the Agency's river regulations (9 NYCRR 577.6).

Shoreline Setbacks

12. All structures, except docks and boathouses, in excess of 100 square feet, including attached decks, shall be set back a minimum of 100 feet in Resource Management areas and 75 feet in Rural Use, measured horizontally, from the closest point of the mean high water mark of all lakes or ponds and rivers or streams navigable by boat (including canoe), except that within river areas of designated rivers the additional structure setback restrictions of 9 NYCRR 577.6 apply.

Hunting and Fishing Cabins

13. In order to qualify as *bona fide* "hunting and fishing cabins", all such structures shall comply with Agency regulations at 9 NYCRR 570.3 by consisting of a cabin, camp or lean-to designed for occasional occupancy for hunting, fishing, and similar purposes.

Protocol for 12 Additional Camps (or Camp Re-Locations)

14. Twelve additional hunting and fishing cabins may be added to the project site as proposed by the applicant provided (i) the total number of all such cabins on the project site does not exceed 220; (ii) Heartwood submits to the Agency for its review in accordance with Condition 15 below camp siting and design information based on the "Protocol for Achieving Compliance of Prospective Camps" (April 5, 2011 version); (iii) the following regulatory requirements are complied with: (a) such cabins shall be less than 500 square feet in size and less than 40 feet in height, unless authorized by a new or amended Agency permit; (b) for purposes of determining the size of a camp pursuant to 9 NYCRR 570.3(ah), all floor space including covered decks and porches and finished attics shall be included; (c) the height shall be measured from the highest point on the structure, including the chimney, to the lowest point of existing grade or finished grade, whichever is lower; and (d) to ensure status as an "occasional occupancy" structure (Finding of Fact 37), no interior plumbing or conventional, on-site wastewater treatment system shall be installed, except that one sink for personal and dish washing drained to a rock-filled shallow absorption pit may be installed as well as sanitary privies (or chemical toilets, composting toilets or other non-leaching systems may be used); and (iv) all necessary regulatory approvals are obtained (including coordination with the NYS Office of Parks, Recreation and Historic Preservation to ensure protection of historic resources as described in Condition 17 below).
15. At least 30 days prior to construction of any of the twelve additional hunting and fishing cabins (or any re-locations of cabins) proposed as part of this project, Heartwood shall submit comprehensive information as outlined in the "Protocol for Achieving Compliance of Prospective Camps" received April 5, 2011. The Agency may also amend the protocol in the future to obtain additional or more relevant information. If the Agency determines, whether or not it is within the thirty day time period prior to construction of a camp described in Finding of Fact 48,

that Agency permit jurisdiction has been triggered, the applicant or its successors shall obtain an Agency permit or otherwise bring the camp into compliance with Agency rules and applicable law. The Agency also reserves its right to reconsider or modify this procedure if it determines the process is resulting in substantial non-compliance with Agency laws and regulations.

License Provision

16. Heartwood shall provide the Agency with an updated copy of the hunt club license used for the project site which contains a provision requiring compliance with all statutes and regulations administered by APA and DEC, as required by Term 6 of the December 2, 2010 modified settlement agreement.

Historic Preservation

17. No ground disturbing activities (including the construction of the twelve new camps and camps being relocated at a new site) shall occur on the approximately 110,000 acre project site prior to OPRHP's review of any individual undertakings requiring an APA permit. In addition, in accordance with the requirements of Permit 98-313, Finding of Fact 48, as to structures 43 and 18 at the Center Camp on the Stony Brook Club license parcel, no undertakings having the potential to impact these structures shall occur prior to additional APA and/or DEC consultation with OPRHP to determine the eligibility of these resources and appropriate preservation measures, if determined eligible.

Legal Interests of Others

18. This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project or subdivision, nor does it authorize the impairment of any easement, right, title or interest in real or personal property held or vested in any person or legal entity.

Agency Review of Future Subdivision and Development

19. There shall be no further subdivision of the Resource Management portion of the project site without a new or amended Agency permit as required pursuant to section 810(1)(a)(3) of the APA Act. In addition, in both Resource Management and Rural Use areas, modification to any of the 220 cabins allowed herein that would result in any becoming

a principal building will require prior Agency review and approval through amendment of this permit. Further, there shall be no new subdivision or new land use or development without first obtaining an Agency permit within (i) any private land portions of the river areas (within ¼ mile from each river bank) of the following designated Scenic and Recreational rivers, portions of which river areas extend onto the project site: Deer River, East Branch St. Regis River, Main Branch St. Regis River, Long Pond Outlet, South Branch Grasse River and West Branch Oswegatchie River, or (ii) any critical environmental area, including (a) lands located within ¼ mile of any Study River (portion of Grasse River); (b) involving wetlands; (c) lands located within 660 feet of state land classified Wilderness, Primitive or Canoe; and (d) state highway travel corridors in Rural Use (area within 150 feet of the edge of the highway right-of-way) and Resource Management (area within 300 feet of the edge of the highway right-of-way). However, (i) re-locations of any existing cabins and (ii) up to 12 additional hunting and fishing cabins involving less than 500 square feet of floor space may be constructed on the project site without a permit amendment, provided the total number of camps does not exceed 220 and provided further that prior to undertaking such a re-location or new cabin, Heartwood complies with the Protocol described in Condition 14 and 15 above.

FINDINGS OF FACT

Background/Prior History/Overview

1. Heartwood Forestland Fund III, LP ("Heartwood" or "HFF") is a North Carolina Limited Partnership whose general partner is Heartwood Forestland Fund Advisors III, LLC, whose manager, in turn, is The Forestland Group, LLC ("TFG"). TFG was formed in 1995, is headquartered at Chapel Hill, North Carolina and is responsible for the day-to-day operational activities on Heartwood's land. TFG is an independent timberland investment management organization (TIMO) which emphasizes naturally regenerating hardwood and some softwood forests. TFG currently manages approximately 3.4 million acres in twenty US states as well as in Belize, Canada and Costa Rica.
2. Heartwood is the record owner of approximately 110,000 acres of forestland located in northern and western portions of the Adirondack Park, which includes lands in three counties and eight towns.
3. The landholding in question is a portion of what was formerly known as the "Champion lands", which totaled approximately 139,000 acres (within the Adirondack Park)

and consisted of three large, non-contiguous tracts known as the "Tooley Pond Tract", the "Santa Clara Tract" and the "Croghan Tract".

4. The lands have served as working forests for commercial timber production since the early 1900's, first by the St. Regis Paper Company and later by Champion International Corporation (Champion). The lands also have a long history of being subject to numerous short term hunting and fishing club leases.
5. Today, Heartwood's lands within the Park continue to be used primarily for commercial forestry operations and secondarily for a variety of outdoor recreation activities by both private hunting and fishing club licensees and by the general public. Heartwood desires that those uses continue for both groups.

Champion's Sale of Original Landholding

6. Champion's lands within the Adirondack Park were offered for sale in the late 1990's. Following its receipt of the necessary planning approvals (described in more detail below), on June 30, 1999 Champion conveyed to the State in fee strips of land along five major rivers, which lands contain a large portion of the most sensitive resources associated with the overall landholding and total approximately 29,000 acres. These lands became part of the Adirondack Forest Preserve and generally extend back from the banks of each river over 1,320 feet. Thus the lands include most of the regulated river area corridors along portions of the following five rivers designated under the NYS Wild, Scenic and Recreational Rivers System Act: Deer River (Scenic), East Branch St. Regis River (Recreational and Scenic), Main Branch St. Regis River (Recreational and Scenic), South Branch Grasse River (Recreational and Scenic) and West Branch Oswegatchie River (Recreational). Additional acreage surrounding Madawaska Flow and the Quebec Brook area was also included in the strips of land conveyed to the state. Sensitive resources in these areas include designated river shorelines, river floodplains, wetlands, aquatic and biologic habitat, and scenic and aesthetic resources, among others. No timber harvesting may occur on these state-owned strips of land, since they are part of the Forest Preserve. These lands are referred to as the "Fee lands".
7. The remaining Champion lands within the Park totaling approximately 110,000 acres were initially conveyed to The Conservation Fund. The Conservation Fund simultaneously entered into three Conservation Easements (one for each tract) held by DEC on behalf of the People of the State of New York to protect these lands. The lands were then

conveyed to Heartwood subject to the Easements. The Easements specifically provide for continued forest management as well as certain recreational use, as described in more detail below. These lands are referred to as the "Easement lands".

Agency Permit 98-313

8. Agency Permit 98-313 was issued on June 28, 1999 (in advance of the closing on the Champion land) and authorized the above subdivision of the 139,000 acre landholding into (i) the multiple strips of land totaling approximately 29,000 acres along the above north flowing rivers which became the Fee lands; and (ii) thirteen large timber management parcels totaling approximately 110,000 acres identified as C-1 through C-2, S-1 through S-9 and T-1 through T-2, which lands remained in private ownership protected by Conservation Easements held by the State (Easement lands). In addition to authorizing the subdivision of land, the permit approved (i) a 5-acre "exclusion area" located on each of the thirteen timber management parcels, with two principal buildings to be allowed within each exclusion area; (ii) three log concentration yards; and (iii) a sawmill, among other project components. The project approved by Permit 98-313 also included proposals for termination of the hunting club leases on the Fee lands after a fifteen year period (by 2014) and removal of the hunting camps within three years thereafter (by 2017).
9. Permit 98-313 also described the 1999 "Champion Settlement Agreement" (further described below) that had recently been entered into to resolve certain violations/noncompliance associated with the Champion landholding related to the laws administered by APA.
10. Project 98-313 was undertaken in part, as authorized by the permit, by the conveyance of the Fee lands to the State, with the Easement lands making up the timber management parcels ultimately being conveyed in their entirety to Heartwood, while being protected by the three "working forest" Conservation Easements held by DEC. All of the thirteen timber management parcels are still owned by Heartwood. Heartwood has since proposed some minor adjustments to certain of the thirteen 5-acre exclusion areas where the principal buildings could be located (Project 98-313B), but none of the thirteen timber management parcels has been separately conveyed to date.

Conservation Easements

11. The three Conservation Easements dated June 30, 1999

restrict the bulk of the approximately 110,000 acre project site for this project (with the only exception being three relatively small, non-easement areas indicated by cross hatching on the Camp Envelope Access Maps [one on each of the three tracts]). The principal objective of the current Easements is to support a sustainable working forest for each of the timber management parcels in question to facilitate the biologically and economically sustainable production of forest resources. A secondary objective is the conservation of wildlife habitat and other natural features. A third objective is to provide opportunities for public recreation in a manner that is consistent with the forest management and resource conservation purposes set forth in the Easements. The three tracts of private forestland restricted by the Conservation Easements total approximately 109,000 acres and are identified as (i) Santa Clara Tract encompassing approximately 72,000 acres located in the Towns of Duane, Santa Clara and Waverly in Franklin County and Hopkinton in St. Lawrence County; (ii) Tooley Pond Tract encompassing approximately 24,000 acres in the Towns of Clare and Clifton, St. Lawrence County; and (iii) Croghan Tract encompassing approximately 13,000 acres in the Towns of Croghan and Watson, Lewis County.

12. While these Easements are presently in force, DEC and Heartwood are also in the process of modifying certain Easement terms. Among other changes, the modifications being proposed would allow (i) up to 220 hunting and fishing camps to remain on the landholding on a permanent basis, (ii) the license by Heartwood of "Recreation Camp Envelopes" (including a one acre privacy zone) around each camp and (iii) the conveyance by Heartwood of a northeasterly portion of forest management tract S-4 to the State (as well as a 502± acre parcel located outside the Park). Heartwood and DEC acknowledge that for certain of the proposed modifications to take effect, APA Permit 98-313 needs to be amended in accordance with materials submitted for Project 2010-298 to include as part of that project (i) Heartwood's proposal to continue short-term leasing of up to 220 hunt club camps on a permanent basis (instead of removal after 2014), including a one acre privacy area around each camp, (ii) application for after-the-fact approval for 33 hunt club camps which required an Agency permit, and (iii) modification of timber investment tract S-4 to allow conveyance of a 2145± acre portion to the State.
13. The permit application materials include the text of proposed Easement modifications currently being proposed by DEC and Heartwood. The draft is fifteen pages in length and includes sixteen proposed modifications. Again, the proposed modifications can be summarized as follows:

- 2,145.5 acres of forestry tract S-4 located inside the Adirondack Park would be conveyed from Heartwood to the State;
 - Heartwood would also convey approximately 502 acres of "Marshall" located outside the Park to the State;
 - Heartwood would be allowed to maintain and license on a permanent basis, beyond the present 2014 license termination deadline, up to 220 Hunting, Fishing and Recreation Camps (with each camp including a one acre "exclusive use" area around it);
 - The terms of the easement are also modified in the subject areas of camp design, vehicular access across lands, public access to exclusive hunting areas and designation of one acre "no public access" area around each camp), and certification of sustainable forestry operations. (Proposed easement modifications are discussed in more detail below.)
14. Proposed modifications to the Conservation Easements would still need to be reviewed and approved by the NYS Attorney General's Office and/or the Office of the State Comptroller, and the SEQRA review process initiated in 2009 (described below) needs to be completed prior to any implementation.
15. Condition 7 of APA Permit 98-313 contains language requiring that DEC submit the final Land Management Plan (now known as a Recreation Management Plan) for the Easement lands for APA review to determine its consistency with the Permit and with the APA, Wetlands and Rivers Acts (which are administered by the Agency as to lands within the Park), unless a Memorandum of Understanding between DEC and APA addressing coordination for private land Conservation Easements has been completed. The Condition provides that upon completion of the MOU, it would guide APA and DEC coordination as to the Land Management Plan for the Easement lands. The MOU in question was signed and took effect on September 10, 2010 and accordingly it now guides DEC/APA coordination and input as to the subject Management Plan.
16. In accordance with both (i) terms of the purchase contract for the 1999 sale of the property and (ii) the 1999 Conservation Easements, hunting and fishing cabin leases involving the Fee lands were to be terminated five years after the conveyance and the camps removed within three years after lease termination. Again, the project approved by Permit 98-313 included that proposal. The existing camp removal provisions are described as part of the project approved by Permit 98-313 at Finding of Fact 7.

17. Given the Easement requirement for the removal of the camps, under the terms of the 1999 "Champion Settlement Agreement" (which resolved violations of the laws and regulations administered by APA, was signed by APA, DEC and Champion, and includes language intending to bind subsequent owners) certain remediation and after-the-fact review for hunt club camps needing same was not required. In short, ultimate removal of the camps was seen as mooted those violations. Now that up to 220 of the camps are proposed to be retained, compliance and after-the-fact review and approval for those camps requiring same needs to be addressed and is described below as part of a December 2, 2010 revised settlement agreement.
18. Apart from remediation related to the camps that were to be removed, nearly all remediation required by the 1999 settlement agreement on the three large tracts has been completed (except for removal of two camps from the state Fee lands, certain remediation involving a Soft Maple Flow lease subdivision in Croghan and Watson, and remediation along River Road) in the Town of Waverly. An Environmental Benefit Project addressing pre-1973 wastewater treatment systems is also in process along River Road.
19. Under the existing, interim management plans for the three Easement land tracts, there is certain existing public access to each of the three tracts along existing roads and trails. For example, there is existing motor vehicle access to the Santa Clara tract off NYS Route 458 via a road/trailhead marked by a DEC sign reading "Santa Clara Flow Conservation Easement, Motor Vehicle Trail to Madawaska Flow". Access to the Tooley Pond Tract is from (i) the Spruce Mountain Road and (ii) Allen Pond Road. Access to Easement lands in the Croghan tract is from multiple roads including Soft Maple Road and Woods Road.

**Proposal for Continued Licensing and Retention
of Hunt Club Camps**

20. Again, Heartwood and DEC now seek to have the existing hunting camps be allowed to remain indefinitely on the Easement lands and to add up to twelve additional camps for a total of 220. Accordingly, after-the-fact Agency review is required for the 33 existing camps constructed post-August 1, 1973 which triggered Agency permit jurisdiction (but regarding which no permit was applied for or issued at the time of construction). Since all existing camps are now proposed to remain (some may also be re-located), remediation of certain violations associated with them as identified under the APA, Rivers and Wetlands Acts and regulations also needed to be completed. (Those violations and remediation issues have been specifically listed in and

are dealt with in the December 2, 2010 Modified Settlement Agreement described below.)

21. As of 1999 there were approximately 300 hunting and fishing cabins located on the entire 139,000 acre Champion landholding. Many of the cabins had been in place since prior to the August 1, 1973 effective date of the Adirondack Park Land Use and Development Plan, with many dating back to the thirties, forties and fifties (and some to the early 1900's). Between the signing of the Conservation Easement in 1999 and the present, approximately 73 camps have been removed from the Easement and Fee lands. Again, at present there are 206 camps on the Easement lands and 2 on the Fee lands (with the two to be removed by August 17, 2011 and re-located on Easement lands) for a total of 208 existing camps.
22. In May of 2006 DEC first approached TFG, the managers of Heartwood, to discuss the possibility of amending the three Conservation Easements to allow for retention of certain hunting and fishing cabins on the Heartwood ownership. As a result of DEC's experience with a number of Conservation Easements in the early 2000's (after execution of the Champion land Easements), the Department came to recognize the value of retention of certain existing hunting and fishing cabins on proposed Easement lands and noted that continuation of a program to license land and/or camps for hunting, fishing and similar purposes could be a significant component of any sustainable forestry program. Retention of camps could allow for continuation of the cultural tradition of hunting, fishing and open space recreation on the Easement lands. With proper management, such a leasing program was seen as benefiting a sustainable forest management program by providing an additional human presence in various remote portions of the project site (which could provide the landowner with notice of changes to the forest and of other environmental or emergency conditions). Such a license program could also provide a source of revenue for the landowner to assist with costs related to forestry planning, real property taxes and other expenses associated with an economically sustainable forest management program. The retention of hunting and fishing cabins on the Champion lands was also requested by certain town governments involved. Finally, camp retention could result in continuation of certain economic and fiscal benefits to the Towns as discussed below.
23. Based on discussions over several years, consensus has been reached between DEC and Heartwood (TFG) as to the following key components to modify the Easements. First, as mentioned above, an easterly portion of the forest management tract designated S-4 (Santa Clara Tract) located northeast of Deer River and containing approximately 2,145

acres is proposed to be conveyed to the State of New York. Modification of the S-4 tract in that manner would still be consistent with the overall subdivision proposal approved by Permit 98-313. Second, a separate approximately 502 acre parcel of the Marshall lands (located outside the Adirondack Park and not subject to Agency review) is proposed to be conveyed to the State. Third, the Conservation Easements would contain modifications which can be described in more detail as follows:

- Public access to what, under the present Easements, are exclusive hunting rights areas, would occur one year from date of Easement amendments (in advance of current 2014 termination of exclusive hunting rights);
- Limitations on camp numbers (maximum of 220), footprint and height on Easement lands;
- Modification of requirements on Heartwood regarding removal of certain structures (e.g., in the case of deteriorated structures, present Easement language allows structure demolition, burning and burial on site; proposed modifications would require the structure to be repaired to correct the hazard or to be demolished in accordance with applicable laws and regulations);
- Limitations on vehicular access across all lands encumbered by Easement. For example, Easement modifications would:
 - (i) require Heartwood, "on an annual basis or as needed, [to] revise the Camp Access Map, which shall identify those drives and trails on the Protected Property that serve as permitted means of ingress and egress by Motor Vehicle to each Recreation Camp Envelope from a public highway or road that is open to public use by car, truck, or similar passenger vehicle", which proposed designation shall be subject to review and approval by DEC;
 - (ii) allow Heartwood to "designate roads and trails for Camp lessees' use by passenger car or truck, or snowmobile (but expressly excluding ATVs) in addition to ingress and egress drives to the Recreation Camp Envelopes", subject to approval by DEC and provided further that the location of any such additional road or trail must appear on the Camp Access Map and provided DEC is granted the right to subsequently open any such additional road or trail for use by the public subject to review and approval

by Heartwood; and

- (iii) require that motorized vehicle use by Camp licensees on lands subject to the Easement (a) "is restricted to those roads and trails specifically designated for public Motorized Vehicle use and to those drives, roads and trails specifically designated in the above-referenced Camp Access Map, and shall be subject to review and approval [by DEC] as to compliance with the Easement, which approval shall not be unreasonably withheld;" and (b) "Exclusive private use of ATVs by Camp lessees shall be restricted to those drives and trails designated in the Camp Access Map as permitted ingress and egress to and from Camps;" and "ATV use shall be further restricted to those periods of the year when the wet weather and muddy condition of such drives and trails would prevent the lessees from using cars and trucks." "[Heartwood] shall require each Camp lessee to display a sticker or other such device that clearly identifies the Motorized Vehicle as belonging to the Camp lessee." "Any visitor to the Protected Property by invitation of a Camp lessee, who also wishes to operate a Motor Vehicle on the Protected Property, must possess a pass issued by Grantor for this purpose."

- Heartwood must also either (i) develop a forest management plan approved by DEC in accordance with the terms and conditions of the Easement or (ii) enroll and maintain certification for the Easement lands in a Qualifying Certification Program in accordance with the terms and conditions of the Easement; and
- Heartwood would have the right to maintain beyond the 2014 deadline a maximum of 220 camps with one acre camp "exclusive use envelopes" (licensee privacy area) which may be licensed on lands protected by Easement. Camps that occupy 500 square feet or more of ground area as of the date of easement modification shall not be expanded; those that are less than 500 square feet as of that date may be expanded to occupy no greater than 500 square feet of ground area.

24. Of the 208 camps located on the project site, 174 are located on the Santa Clara Tract, 23 on the Tooley Pond Tract and 11 on the Croghan Tract. Various sized parcels of land associated with those camps (larger than the one acre privacy area currently being proposed) are currently

being licensed by a total of approximately fifty separate hunt clubs.

25. Most of the hunt club camps on the project site did not require an Agency permit, as they were constructed prior to August 1, 1973 effective date of the Park Plan, had not been expanded by more than 25% after that date and pursuant to §811(2) of the APA Act were not subject to Agency permit jurisdiction. They would also not be subject to Agency permit jurisdiction if they were constructed after that date and (i) were less than 500 sq ft in size (thereby not triggering Class B Regional Project permit jurisdiction pursuant to section 810(2)(d)(4) of the Act), (ii) complied with the Agency's definition of hunting and fishing cabin and (iii) did not otherwise trigger predicates of Agency permit jurisdiction (by such jurisdictional predicates as location in critical environmental areas (CEAs) or river areas or by greater-than-25% expansions, among other bases of permit jurisdiction). However, those that triggered APA permit jurisdiction, typically did so due to greater than 500 square foot cabin size in Resource Management or location in a CEA.
26. Siting of twelve additional camps or relocation of any camp on Easement land could trigger the need for a separate Agency permit, given the Resource Management or Rural Use land use areas. APA permit jurisdiction predicates involving hunting and fishing cabins can be complex, but jurisdiction is typically triggered if any proposed, post-August 1, 1973 cabins (i) are 500 square feet or more in size in a Resource Management area; (ii) are located in the river area (within 1320 feet) of a designated recreational or scenic river; (iii) are located in a highway travel corridor "critical environmental area" in Resource Management (within 300 feet of NYS Rt 458); (iv) are located in a highway travel corridor "critical environmental area" in Rural Use (within 150 ft NYS Rts 30 and 458); (v) are located within 660 feet of state land classified Wilderness, Primitive or Canoe; (vi) are located within ¼ mile (660 ft) of a Study River (portion of Grasse River); (vii) involve disturbance or impact to wetlands; (viii) exceed 1250 square feet in Resource Management or Rural Use where the project site already contains existing principal buildings; (ix) are forty feet or more in height; or (x) otherwise trigger predicates of Agency permit jurisdiction under the APA, Wetlands or Rivers Acts and Agency regulations.
27. Retention of the 220 camps on the project site would not be inconsistent with the overall project approved by Permit 98-313, given the approximately 110,000 acre size of the landholding involved (density of approximately 500 acres per camp), the fact camps are proposed to be designed and

- used as occasional use structures for hunting, fishing and similar purposes and the camps are located along existing roads and trails.
28. The applicant has also advised that there are no new roads, trails or other significant infrastructure changes being proposed or constructed as part of this project. There are a number of existing forestry use roads and trails on the property, since it has been managed for years for timber management. The existing cabins are typically accessed from these roads and trails by passenger vehicles or trucks.
 29. The project site consists primarily of "industrial forest lands". Portions of the lands are currently being licensed to approximately 47 hunting and fishing clubs.
 30. As part of the present proposal, camp sites (consisting of the camp plus a one-acre "exclusive use area" around it) may be licensed (instead of the larger acreages now being licensed). Camps may also be licensed to individuals as part of this proposal.

Modified Settlement Agreement

31. The modified settlement agreement is entitled "Revised Agreement with Respect to Violations (APA Enforcement File E99-025)" and signing was completed on December 2, 2010. The agreement lists forty-five hunt club structures found to be in non-compliance with various restrictions or permit requirements administered by the Agency. Thirty-three of the existing camps lack (and are seeking as part of this project) Agency permit approval and compliance with other requirements.
32. Heartwood, The Forestland Group, DEC and APA have signed the revised settlement agreement modifying the 1999 "Champion settlement agreement" to address violation remediation on camps to be retained and to allow the processing of this permit application seeking approval for retention of a maximum of 220 camps and modification of parcel S-4. Remediation required by the agreement involves such items as relocating a sanitary privy (outhouse) to comply with the 100 ft shoreline setback, cleaning up an unauthorized waste disposal area (remains of a demolished camp) and discontinuing unauthorized conventional household septic systems so as to limit use to qualifying sanitary privy and/or non-leaching composting toilet, incinerator toilet or other approved non-waterborne system required for *bona fide* hunting and fishing cabin status. Hunting and fishing cabin status is also important to avoid the structure being treated as a "single family dwelling", which would involve allocation of principal building potential previously limited by the Easement).

33. Specifically, Heartwood submitted this application (Project 2010-298) as required by the agreement seeking to authorize (i) project modification to include retention of up to 220 of the cabins on its Easement lands; (ii) after-the-fact Agency review for the approximately thirty-three camps requiring same; and (iii) modification of parcel "S-4" to allow conveyance of a portion northeast of Deer River to the State. Heartwood also seeks to replace, at new locations on the Easement lands, certain of the existing camps that are being removed. In the future, additional replacements/re-locations may be proposed.
34. Remediation requirements are listed in the hunt club camp spreadsheet described above (contained in the project file) as well as the December 2, 2010 modified settlement agreement. The deadlines for remediation vary, but the agreement provides that in any event all remediation must be completed no later than December 31, 2011. Upon completion of the remediation, these camps would comply with the Agency definition of the term "hunting and fishing cabin" promulgated in 1979, in that they would be designed for occasional use for hunting, fishing and similar purposes.
35. The December 2, 2010 settlement agreement also provides that Heartwood will undertake follow-up inspections to confirm completion of the agreed-upon remediation and will submit an inspection report and photograph confirming same.
36. Heartwood has also agreed that it will include provisions in its hunt club licenses to require that all structures located on and all usage of the licensed premises comply with all applicable governmental regulations, including the statutes and regulations administered by APA and DEC (settlement term 6).

Hunting and Fishing Cabins

37. The Agency's regulatory definition of "hunting and fishing cabin" which has been in Agency regulations since 1979 defines such cabins at 9 NYCRR 570.3(m) as a "cabin, camp or lean-to designed for occasional occupancy for hunting, fishing, or similar purposes." (While a subsequent, more detailed regulatory definition of hunting and fishing cabin was promulgated by the Agency in 2008, a court decision in 2010 struck that definition as encroaching on legislative authority; the 2010 court decision is presently on appeal.) NYS Department of State has determined that such *bona fide* hunting and fishing cabins complying with Agency regulations constitute "Group U Occupancy" structures for NYS building code purposes and are exempt from the building requirements for conventional dwellings.
38. The existing licenses involving the project site, which are

presently held by hunt clubs, authorize the existing camps. The camps are occasional use structures of a nature and type of use that would comply with the above hunting and fishing cabin definition.

39. As of this date, all camps have been removed from the state-owned "Fee land", except for two: Skate Creek Club #24 and Spruce Mountain Club #12 (both of which cabins are located on Wild Forest lands within the Tooley Pond Tract and are scheduled to be removed by August 17, 2011 and likely relocated to Easement lands).
40. Camps remaining on the "Easement lands" are presently subject to license agreements and in the future would be subject to short term license agreements between the various hunting clubs and/or individuals and Heartwood authorizing specific camp sites (plus a one acre "privacy area" around each camp which could be posted). Such agreements are proposed to take the form of a three-year "Camp Site License Agreement", a sample form for which is included in the project file. The license agreement provides that the camps may be used for no purpose other than hunting, fishing, trapping and engaging in other outdoor recreation, and that the camp owner may not receive compensation from any guests staying there (Section 5). The license also provides the owner may not engage in commercial activities (Section 5). Heartwood has advised that the multiple restrictions in the license and usage protocols described below are designed in part to prevent use of the camps as single family dwellings.

Camps To Remain on Easement Lands

41. Approximately 160 (77%) of the present 208 camps located on Easement lands are "preexisting", having been constructed prior to the August 1, 1973 effective date of the Adirondack Park Land Use and Development Plan. Of the 46 camps constructed post-1973, 33 were found to have required an Agency permit (most due to their 500 square foot or greater size in Resource Management areas). Locations for all 208 existing camps are depicted on three plan-size maps described above in the project description. The maps depict the club names, camp number and license area. In addition, the project file contains five ledger-size copies of maps depicting, in greater detail, certain clusters of camps, where camp locations are too close together to be separately shown on the larger maps. Camps of a particular club are generally located in the same general area and most camps are clustered along existing roads and trails which are used for timber harvesting purposes.
42. The thirty-three camps for which Heartwood seeks Agency approval (Club name and camp number are listed above in the

Description of the Project as Proposed) are all fairly rustic structures which have been used by hunt clubs over the years for hunting, fishing and similar purposes. These particular thirty-three camps are dispersed among twelve different club areas on the Santa Clara and Croghan tracts, and photos and data sheets for each camp are included in the project file. So long as the revised settlement agreement is complied with, these camps would qualify as hunting and fishing cabins under the above regulation and the project would not involve any undue adverse impacts, as described in more detail below, provided the December 2, 2010 settlement agreement is complied with. Of the thirty-three camps subject to Agency permit jurisdiction, only Everton Fish & Game Club 91 and 92 presently exceed 1,250 square feet and accordingly they presently constitute "principal buildings" pursuant to APA Act §802(50)(h). Heartwood has indicated it may require reduction in the square footage of those camps to avoid status as principal buildings.

43. Retention of the 220 camps would not be inconsistent with the overall project approved by Permit 98-313. Again, there are no new roads, trails or other significant infrastructure changes being proposed as part of this project and the historic use of the camps is proposed to be continued.
44. Also, a spreadsheet entitled "Current Status of Camp Compliance - All Camps, TFG Camp Data Spreadsheet" received 8/27/10 prepared by LandVest lists all 208 existing hunt club camps (alphabetically by hunt club name, including camp number) and is included in the Project 2010-298 project file. The spreadsheet also includes camp construction date, square footage and status of compliance with various restrictions administered by the Agency.
45. In addition, the project file contains five three-ring binders submitted by LandVest containing a database including photographs, inspection reports and locator maps for each of the existing camps.
46. Finally, the file contains a January 28, 2011 letter from TFG describing the proposal for re-locations of the following camps: Azure Mountain 250; Dan Mountain 1; East Branch 16, 19B, 72, 75 and 76; East Brook 211; and Skate Creek 1. For purposes of determining Agency permit jurisdiction, the Agency treats proposals to re-locate camps at a new camp site as if they are proposals for new camps and applies predicates of Agency permit jurisdiction accordingly.

Protocols for Camps

47. HFF has provided the Agency with application materials

entitled (i) "Details of the new camp protocol" received August 17, 2010 and (ii) a revised "Protocol for achieving compliance of prospective camps" received April 5, 2011 describing the applicant's methodology for siting and limiting impacts from camps. The "Details" document lists some 29 items that will be considered in siting all existing and newly constructed camps and their envelopes, including such criteria as:

- Camps that occupy 500 sq ft or more of ground area as of the date of the amendment cannot be increased in size;
- Siting of new recreation camp envelopes shall require approval of HFF and DEC to ensure compliance with the Conservation Easement and all governmental regulations including APA laws and regulations;
- All modifications shall require submission of detailed plans to HFF to ensure consistency with Easement;
- No camp or accessory structure may be expanded to exceed one story in height or 20 ft high as measured from the bottom of the foundation to the top of the peak of the roof;
- Camps may be located or relocated, but not within 100 ft of a river, pond, lake, perennial stream or government-regulated wetland;
- No camp may be used for a permanent residence or for commercial activity (the applicant has defined permanent residence as a place inhabited 80 days or more in a calendar year);
- HFF reaffirms its commitment to abide by the terms and conditions of APA Permit 98-313, as amended;
- Camp owners shall comply with all applicable federal, state and local laws and any other legal requirements, including those governing hunting, shooting and use of motorized vehicles;
- Cabin sites shall not be operated for commercial purposes;
- Cabin sites shall not be used as a place of permanent residence. For purposes of these regulations a permanent residence is defined as a place inhabited 80 days or more in a calendar year;
- Fences, gardens, or gates are not allowed on cabin sites; and
- A number of other standards for use of property are also listed.

The separate document entitled "Protocol for Achieving Compliance of Prospective Camps" (April 5, 2011 version) lists numerous natural resource and geographic criteria that will be evaluated by Heartwood's land managers before proposing sites for the twelve additional camps and for any replacement camps. It is intended to address all predicates of Agency permit jurisdiction listed in Finding of Fact 26 and result in the design of a hunting and fishing cabin that does not trigger the need for a permit. Items to be considered include (i) marking the perimeter of any lakes, regulated wetlands or stream channels (permanent or intermittent) within 200 ft of the proposed camp site; (ii) ascertaining that regulated wetlands will not be disturbed or impacted; (iii) determining suitable locations for camp, pit privy and graywater disposal system; (iv) preparing a location map; (v) measuring and recording distances from the above water features to camp, privy and graywater system if less than 200 feet; (v) measuring vertical separation distance of privy and graywater system location above seasonal high groundwater and bedrock (to ensure that there is at least 48 inches of soil at the location of the pit privy and gray water system above SHGW or bedrock); (vi) ensuring location does not involve land areas which could trigger Agency permit jurisdiction, such as: (a) within 300 ft of a state or federal highway, (b) within 660 feet of state land designated Wilderness or Primitive, (c) within designated or study river area (within 1320 feet of river), or (d) area designated by NYS OPRHP as having potential archeological value; (vii) ensuring the size of the camp footprint is less than 500 square feet; and (viii) ensuring the height of the camp is less than 40 ft. On April 12 the applicant also agreed to consider adding additional language to the protocol to address camp siting. The language provides that "In selecting sites for new or relocated camps, landowners and DEC shall take into consideration the site's proximity to existing roads and trails and existing camps; in an attempt to minimize undue impacts on remote, undisturbed or inaccessible areas." Once gathered, proposed camp siting information would then be submitted to the Agency by the applicant.

48. The applicant proposes the following process for purposes of assuring that the twelve additional camps (and any re-locations of camps) are constructed in compliance with all regulatory requirements. The applicant will have its staff review the plans and inspect the proposed construction site for each newly proposed camp to ensure compliance with the "Protocol for Achieving Compliance of Prospective Camps". Next the applicant will submit to the Agency the

information gathered according to the Protocol at least 30 days prior to physical work beginning on a prospective camp site. The Agency is asked to review that material and respond to the applicant within that 30-day time period as to whether the Protocol has been complied with and the camp proposal is non-jurisdictional. If a camp proposal is determined to trigger Agency permit jurisdiction, the Agency would also so advise the applicant within that time period and the applicant will attempt to redesign the camp proposal to achieve a non-jurisdictional design. However the applicant agrees that as part of this process, even if the Agency were unable to respond within the 30 day period, it can still seek remediation of any camp, at any time in the future, so that all camps conform to applicable rules and laws. The landowner has assured APA and DEC that it is committed to a continuing process to ensure that all camps are built and kept in compliance with all applicable regulations. Once all camps have been brought into full compliance with the December 2, 2010 Modified Settlement Agreement (including reducing the size of the two Everton Fish and Game Club Camps to 1,250 square feet or less as described Finding of Fact 42 above), none of the existing 208 "hunting and fishing cabins" and none of the additional 12 camps authorized herein will constitute a "principal building" under Section 802(50) of the APA Act or a "residential dwelling unit".

SEQRA Review of Proposed Changes to Easement Terms

49. As part of the process of amending the terms of the 1999 Conservation Easements, on November 11, 2009 notice was published in the Environmental Notice Bulletin that DEC, as lead agency, had accepted a Draft Environmental Impact Statement regarding the proposed Conservation Easement modifications. The DEIS is available for review on the DEC website (www.dec.ny.gov) (Lands and Waters, Forests, Conservation Easements, HFF III DEIS). Upon completion of the amendment process for APA Permit 98-313, DEC has advised it will proceed with any final revisions to Conservation Easement modifications, and will accept, as lead agency, a Final Environmental Impact Statement and a Response to Public Comment Summary. DEC will also publish those documents in the Environmental Notice Bulletin for no less than 10 days pursuant to 6 NYCRR 617.11. Within 30 days of notice of a Final Environmental Impact Statement, DEC will release a written findings statement and will make a decision on whether to approve and undertake the Conservation Easement modifications.

Existing Environmental Setting

50. The project site consists predominantly of forested open space which has historically been used for industrial forest management purposes. The approximately 110,000 acre landholding involved consists of three geographically separate, privately-owned tracts of land located in Franklin, St. Lawrence and Lewis counties. As working forestland, the landholding has also contained numerous hunting and fishing cabins, with over 300 cabin sites leased to multiple hunt clubs since long prior to the 1973 enactment date of the Park Plan. At present there are a total of approximately 208 hunting camps dispersed in discrete areas of the three tracts.
51. Portions of river areas of the following designated rivers extend onto the project site: Deer River, East Branch St. Regis River, Main Branch St. Regis River, Long Pond Outlet, South Branch Grasse River and West Branch Oswegatchie River. Future subdivision or new development activities within the private land portions of those river areas would typically trigger the need for an Agency permit pursuant to section 577.5 of Agency regulations. Activities on the state Fee land portions would typically be regulated by the Unit Management Planning process.
52. Portions of the project site are located within state highway travel corridors which extend back from the edge of the highway right of way 300 feet in Resource Management and 150 feet in Rural Use and are designated as "critical environmental areas" pursuant to sections 810(1)(e)(1)(e) and (1)(d)(1)(e) of the APA Act where permits are required for future subdivisions and new land use or development. Examples of such areas are portions of the site bordering NYS Routes 30 and 458 in the Santa Clara Tract.
53. Further description of the existing environmental setting is contained in the Draft Environmental Impact Statement entitled "Modification of Working Forest Conservation Easements Held by NYSDEC on Lands owned by Heartwood Forestland Fund III, LP" prepared by DEC and accepted November 11, 2009.

Public Notice and Comment

54. The Agency notified approximately 160 adjoining landowners identified by the applicant and those parties as statutorily required by §809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application Form on February 15, 2011 followed by publication in the Environmental Notice Bulletin with a deadline for comment of March 10, 2011. Comment received included five letters and approximately nine phone messages. The vast majority

of comments were favorable toward the project, however a number of nearby landowners had questions as to how access to their lands might change if Heartwood's licenses change to license the smaller area consisting of the camp plus a one acre privacy area or whether they could still use the existing logging roads/trails to access their lands. Those inquiring were directed to Heartwood as to any use of access roads issues and to DEC staff as to any interim Recreation Management Plan or public access issues. Another letter inquires as to what authority the Agency might have to hold a permit application incomplete where Conservation Easement modifications are proposed for a the project site and final approval for the modifications has not yet been obtained from the Office of the State Comptroller and the Attorney General's Office. ECL Article 49 provides no statutory authority for the Agency to participate in the negotiation of Easement terms, which agreements are considered private civil agreements between the landowner and DEC (acting on behalf of the People of the State of New York). Rather, the Agency's role is to review a proposed project involving a subdivision or development activity that is subject to Agency permit jurisdiction as a Class A or B Regional, Wetlands or Rivers project and to ascertain (i) whether it is compatible with the land use area; (ii) whether there are any undue adverse impacts to Adirondack Resources or to the ability of the local government to provide supporting services resulting from such project; and (iii) whether it would otherwise comply with the permit approval criteria.

Other Regulatory Permits and Approvals

55. The Agency has received comment on the project from several of the eight Towns involved in response to the mailing of the Agency's project notice form indicating that no approvals are required. As long as the hunt club camps comply with the definition of hunting and fishing cabin, they qualify as Group U Occupancy structures under the state building code and are exempt from normal requirements for residential structures.

Economic/Fiscal Factors

56. Retention of the 220 hunt club camps (208 of which are presently existing) would continue to have positive economic and fiscal benefits for the towns and counties involved. For example, club members using the camps make purchases in nearby communities and Heartwood employs land management and forestry staff and purchases goods and services which often provide local employment and

expenditures. Further, there would be continued fiscal benefits to the communities from real property tax and sales tax revenues associated with the continued retention of hunt club structures. The Heartwood landholding is not currently enrolled in Real Property Tax Law §480-a or other tax abatement programs.

PROJECT IMPACTS

Wetlands

57. There are numerous wetlands and other water features on the project site. Some of them are shown on the mapping data provided by the applicant for areas in proximity to camps. Wetlands shown on the plans and/or described herein are intended to alert landowners and others that wetlands are present on the site. However, this may not identify all wetlands on or adjacent to the site. The applicant or the project sponsor should check with the Agency before undertaking projects located within or that substantially impair wetlands.
58. Wetlands will be protected provided the statutory and regulatory structure setbacks are maintained between them and any cabins, privies or graywater systems, and provided that any future filling or impairment to wetlands is avoided.

Water Resources

59. Key water resources have already been protected by the state's acquisition of strips of land (generally extending back in excess of 1,320 feet from each river bank, for a total width typically in excess of one half mile) within the corridors of the designated rivers on the project site. In general, these "Fee land" one quarter mile wide corridors provide exemplary protection for river waters. Water resources will be further protected provided existing and future hunting and fishing cabins (located on Easement lands) are limited to a total of 220 camps and comply with (i) the section 806(1)(a)(2) minimum 100 foot shoreline structure setback for lands classified Resource Management and minimum 75 foot shoreline structure setback for lands classified Rural Use; (ii) the section 806(1)(b) minimum 100 foot shoreline sewage system setback for any pit privy or graywater leaching systems; (iii) the minimum 150 foot shoreline structure setback for designated recreational rivers; (iv) the minimum 250 foot shoreline structure setback for designated scenic rivers and (v) Agency project review and conditioning of any jurisdictional projects.

Navigable Shorelines

60. Key navigable shorelines have already been protected by the state's acquisition of strips of land within the corridors of the designated rivers on the project site. Navigable shorelines will be further protected provided the hunt club camps and accessory structures on Easement lands are set back to comply with (i) the section 806(1)(a)(2) minimum 100 foot shoreline structure setback; (ii) the section 806(1)(b) minimum 100 foot shoreline sewage system setback for any pit privy or graywater leaching systems; (iii) the minimum 150 foot structure setback for designated recreational rivers; (iv) the minimum 250 foot structure setback for designated scenic rivers and (v) Agency project review and conditioning of any jurisdictional projects.

Land Resources

61. The three tracts of Easement lands are located in a northwestern section of the Adirondack Park and are areas generally not as mountainous as in the central and eastern Adirondack region. The DEIS referenced above describes these lands as:

"generally characterized as having rolling hills that are interspersed with several significant north flowing rivers, as well as ponds, lakes and large wetlands. Glacial characteristics are predominant, [including] gently curved ridges and valleys, long winding eskers and numerous [water features] and wetlands. The significant forest lands are composed primarily of northern hardwoods, with some conifer stands and some boreal forest types in proximity to wetlands. The forest cover is frequently broken by wetlands, numerous lakes, ponds [, streams and other water features], forest access roads and log landings. Most of the primary recreational water resources that had been formerly owned by Champion, consisting of designated river corridors and other ecologically sensitive areas, were acquired in Fee by the State [in 1999]."

These Fee strips of land included the bulk of the river areas on either side of the five designated rivers on the project site (1,320 feet from each bank) for a total width of approximately one half mile. The timberlands on the Easement tracts have served as working forests for commercial timber production since the early 1900's and would continue to be managed as commercial forests by Heartwood. These lands include numerous logging roads, log

landings and skid trails and they contain a significant percentage of trees comprised of younger age classes compared to the adjoining Forest Preserve lands.

Ecological and Wildlife Resources

62. Numerous hunt club camps are grouped in discrete areas (mostly along existing roads and trails) in various portions of the landholding as depicted on the "Camp Envelope Access Maps", leaving large expanses of land undisturbed and accessible to wildlife. Most intense use of the camps has been during fall "Big Game" season. Hunting occurs predominantly in the big game season. Key wildlife habitats such as the Madawaska Bog and corridors along designated rivers were acquired by the State in Fee in 1999, thereby preserving those resources in an undisturbed condition. A search for Natural Heritage sites revealed that virtually all are located on lands that were previously conveyed to the state, either in 1999 or prior to that date, or they are located off the project site. While there were several Spruce Grouse sites located on lands adjoining the Santa Clara and Tooley Pond tracts, none appear to involve locations of any existing hunt club camps. Given the substantial acreages involved, the relatively limited number of camps being proposed to remain (given the vastness of the landholding) and the grouping of many of the camps along existing roads and trails, permanent, unduly adverse impacts to wildlife species are not anticipated.

Open Space/Aesthetics

63. The retention of no more than 220 hunt club camps in proximity to existing roads and trails on the approximately 110,000 acre project site will help preserve open space, given the following facts: (i) the number of camps has already been reduced from the 300 plus as of 1999 down to a proposed total of 220; (ii) the 220 camps would represent a average density of only one camp per 500 acres; (iii) the 220 acre total area impacted by camps represents only a fraction (two tenths of one percent) of the 110,000 acre project site; (iv) most camps are grouped in specific hunt club areas along existing roads; (v) much of the one-acre privacy areas around each camp would be within the area already impacted by existing roads and trails; and (vi) revenue from the licensing of the camps is an important part of a mix of strategies that can assist in ensuring continuation of economically sustainable forest management which, in turn, aids in support of open space and can

further continued protection of open space by Conservation Easements.

Critical Environmental Area(s)

64. Critical environmental areas will be protected, as most camps are located outside those areas and under the camp siting protocol for the twelve additional camps (and any camps being relocated), sites will be selected to avoid study river, wetland, state land, state highway travel corridor and other critical environmental areas.

Operational Issues Affecting Nearby Land Uses

65. Hunt club camps are designed and used as occasional use structures, with most intensive use typically limited to the fall "big game" hunting season. Many of the camps are located in fairly remote areas further limiting impacts. Also most camps are not served by public utility electric, which together with limited camp usage would mitigate any lighting impacts.
66. HFF has proposed a protocol for all existing and newly constructed camps on the project site to ensure their use as *bona fide* hunting and fishing cabins and not as single family dwellings.
67. Current private recreational use of the Easement lands includes use of cabins by licensees and hunting, fishing, snowmobiling and use of ATVs to access license areas over the entire property. Under the Easements, Camp lessee and guest use of Motor Vehicles, snowmobiles and ATV's would be limited to camp access routes only, and use of ATV's would only be allowed when the camp is otherwise inaccessible by motor vehicle or snowmobile. Other than access to camps and other specially designated motor vehicle roads, lessees must use the entire property in the same manner as members of the public, subject to the motorized and non-motorized uses allowed in the Recreation Management Plan.

Historic Sites or Structures

68. Finding of Fact 48 of APA Permit 98-313 contained the following historic preservation findings related to the earlier large scale subdivision project (which included the proposed termination of leases by 2014 and removal of all the camps by 2017). In a letter dated March 9, 1999 for Project 98-313, the DEC Historic Preservation Officer submitted substantive information to address the New York State Historic Preservation Act of 1980. In a letter dated March 29, 1999 (99PR00003) pertaining to the same project, the Director of Historic Preserve Field Services Bureau

determined that the acquisition and large lot subdivision will have no impact on historic properties listed or eligible for inclusion on the State/National Registers of Historic Places with 2 conditions:

- a. No ground disturbing activities will occur on the 139,000 acre tract prior to OPRHP's review of either DEC's Unit Management Plans and/or individual undertakings requiring an APA permit.
 - b. No undertakings having the potential to impact structures 43 and 18 at the Center Camp on the Stony Brook Club license parcel will occur prior to additional APA and/or DEC consultation with OPRHP to determine the eligibility of these resources and appropriate preservation measures, if determined eligible. The terms "registered," "eligible," or "inventoried" property are defined in 9 NYCRR 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.
69. By correspondence dated January 7, 2011, DEC's Agency Historic Preservation Officer wrote to OPRHP (i) to explain that Heartwood and DEC were currently seeking to modify the existing Conservation Easements affecting the above property to allow the license camps to remain on the subject property, and (ii) to seek OPRHP's concurrence that the proposal as embodied in the current Project 2010-298 would have no adverse impact on historic resources.
70. OPR responded by letter dated January 13, 2011 that (i) the act of altering the Easements would have no adverse impact upon those qualities that are associated with the historic significance of the Adirondack [Forest] Preserve, and (ii) the OPR response did not address or evaluate State or National Register eligibility of recreational camp buildings located on these properties.
"Should future undertakings by DEC or APA specifically involve possible effects to these properties, OPRHP should be consulted under Section 14.09 NYSPRHPL."
71. Accordingly, Project 2010-298, as proposed and authorized herein would have no adverse impact on historic resources provided:
- a. No ground disturbing activities occur on the approximately 110,000 acre project site prior to the applicant's submission to OPRHP of information on such future individual undertakings requiring an APA permit (including any of the proposed relocations of camps to new sites) and OPRHP's determination that such undertakings would not have any such adverse impact on historic resources; and
 - b. No undertakings having the potential to impact structures 43 and 18 at the Center Camp on the Stony Brook Club license parcel will occur prior to

additional APA and/or DEC consultation with OPRHP to determine the eligibility of these resources and appropriate preservation measures, if determined eligible.

Summary Evaluation of Agency Approval Criteria

72. The proposal to allow hunt club camps to continue to remain on the project site, subject to short term (three year) license agreements with the landowner, would be consistent with the historic use of these timber management lands. It would also be compatible with the "character descriptions" and "purposes, policies and objectives" for those land use areas listed in sections 805(3)(f) and (g) of the Act for a number of reasons set forth below. The proposed project also furthers protection of open space resources on these Resource Management and Rural Use lands in conformity with §805(3). In addition, it allows for continuation of forest management and hunting and fishing cabin uses, as well as certain open space recreation.
73. Hunting and fishing cabins are listed as compatible uses in section 805(3) in the Resource Management and Rural Use land use areas involved (as well as in all other land use areas). The camps are grouped along existing roads and trails and are of a very limited density, given the 110,000 acre size of the project site. The camps and the one acre privacy areas surrounding them are predominately located within areas already disturbed by roads and trails. Hence the APA Act §809(10) tests for consistency and compatibility with the Plan would be satisfied.
74. The proposal to convey an approximately 2,145 acre parcel northeast of Deer River to the state would further preserve open space resources. As part of the applicant's proposal, the four hunting and fishing cabins currently located on the 2,145 acre parcel are proposed to be removed.
75. Under the terms of the proposed Easement modification, the following provisions would help limit adverse impacts:
 - Landowner will have perpetual right to license no more than 220 traditional hunting and fishing camps, each with a one acre surrounding area of land (recreation camp privacy envelope) containing all camp buildings;
 - Landowner will be able to post and restrict access to each individual (one acre) recreation camp privacy area (therefore, all but a total of 220 acres (0.2%) of the 108,933 acre Easement property would be open and available to the public);
 - Landowner's exclusive hunting rights from September through December each year until 2014 will be terminated in advance of that date;

- Use of passenger cars, trucks and snowmobiles by camp licensees will be limited to only certain designated routes on Easement lands;
- Use of ATVs by camp licensees would be limited to specified routes to and from each camp envelope and such use may only occur during times of the year when routes are inaccessible to other vehicles (e.g., mud season);
- Landowner is required to either have the Department approve a forest management plan or enroll and maintain the property in an approved sustainable forestry certification program.

The Easement lands have been found to contain natural resources and recreational opportunities of significant value to the public, as further detailed on pages 7-9 of the DEIS.

76. The overall intensity guidelines have been complied with, since no new principal buildings are proposed as part of Project 2010-298 and the shoreline restrictions will be complied with by compliance with the December 2, 2010 Modified Settlement Agreement.
77. To summarize review staff's analysis as to the potential for impacts to Park resources, on balance the project would result in significant protection of historic, recreational and open space resources, with the potential for only limited impacts to open space, throughout the three large tracts. Most noteworthy is the fact that the State's 1999 acquisition of strips of land constituting the bulk of the "river areas" along the five designated rivers on the project site protected key wildlife, ecological, recreational and open space resources by making those corridors part of the forest preserve. The three "working forest" Conservation Easements entered into in 1999 further serve to protect resources and support sustainable forestry. Proposed Easement modifications would enhance that protection in several respects. Given the vast extent of Easement land and the fact hunting camps are dispersed among the three large tracts (with an overall density per camp of approximately 500 acres) and are used only occasionally, the potential for adverse impacts to the recreational and open space resources outside the river areas is greatly reduced. Also, a number of the camps are grouped along existing roads and trails, leaving large expanses of forested open space undisturbed and minimizing natural and scenic impacts. Again, camps are located in areas already disturbed by roads and trails and no new roads and trails are being proposed as part of this project. Although 220 camps would be allowed to remain under the project proposal, the area licensed would be limited to the camps plus a one acre privacy area around

personally appeared Holly E. Kneeshaw personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

HEK:CCP:RRT:mlr



P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050

**APA Project Permit
2006-323**

Date Issued: April 20, 2011

In the Matter of the Application of

RANGEVIEW AT LAKE PLACID, LLC

for a permit pursuant to §809
of the Adirondack Park Agency Act

To the County Clerk: This permit must be recorded on or before June 20, 2011. Please index this permit in the grantor index under the following names:
1. Rangeview at Lake Placid, LLC

SUMMARY AND AUTHORIZATION

Rangeview at Lake Placid, LLC, is granted a permit, on conditions, authorizing development of 85 residential units in an area classified Hamlet by the Official Adirondack Park Land Use and Development Plan Map in the Village of Lake Placid, Town of North Elba, Essex County.

This project may not be undertaken, and no transfer deed shall be recorded, until this permit is recorded in the Essex County Clerk's Office. This permit shall expire unless so recorded on or before June 20, 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 project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit is recorded. The Agency will consider the project in existence when construction of the first residential building is completed.

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.

AGENCY JURISDICTION

The project results in the creation of more than 100 residential units in a Hamlet land use area, a Class A regional project requiring an Agency permit pursuant to §§ 809(2)(a) and 810(1)(a)(3) of the Adirondack Park Agency Act (Executive Law, Article 27). The project also involves the construction of nine structures greater than forty feet in height, a Class A regional project requiring an Agency permit pursuant to §§ 809(2)(a) and 810(1)(a)(4) of the Adirondack Park Agency Act.

PROJECT SITE

The project site is a 23.3±-acre parcel of land located on NY Route 73 (Cascade Road) in the Village of Lake Placid, in the Town of North Elba, Essex County, in an area classified Hamlet on the Adirondack Park Land Use and Development Plan Map. It is identified on Town of North Elba Tax Map Section 42.004, Block 3, as Parcel 6.1. The project site is described in a deed from John W. Pulaski and Grace J. Pulaski to Rangeview at Lake Placid, LLC, dated October 23, 2002, and recorded October 24, 2002, in the Essex County Clerk's Office in Liber 1339 of Deeds at Page 111.

PROJECT DESCRIPTION AS PROPOSED

The project as proposed consists of a condominium development including 21 duplex units and 9 multi-family housing units. The duplex development is referenced herein as "Rangeview," and the multi-family development is referenced herein as "Valley View."

Thirty new buildings with a total of 85 units are proposed to be constructed on the project site as follows: 21 buildings will contain two residential units each (each unit will have from two to four bedrooms, utilizing the same footprint); 2 buildings will contain 4 residential units each (each unit will have 3 bedrooms); and 7 buildings will contain 5 residential units each (each building will have three 3-bedroom units and two 2-bedroom units). The 21 two-unit buildings will be part of the Rangeview Condominium Association. The remaining nine buildings will be part of the Valley View Condominium Association. The two condominium associations will act independently of each other. A trail system along the project roadway will be available to all residents. Wood chips will be used to surface the trail.

The Rangeview structures will be built as side-by-side duplexes with each duplex building resembling a large single family dwelling. Each unit will have a garage and driveway which will also provide an additional parking space. Many of these units will be situated in clusters of 2 to 4 duplex buildings on loop

roads off the project roadway. The Valley View structures will be built as 43 units contained in 2 buildings of 4 units each and 7 buildings of 5 units each. Parking for these units will be provided in parking areas located on both sides of the loop road in proximity to the nine buildings.

All Rangeview and Valley View units are to be constructed in the Adirondack vernacular, using natural timber and stone building materials with earth tone exterior finishes. The proposal includes wood burning fireplaces for the Rangeview duplexes, with no fireplaces in the Valley View units. Nine of the Rangeview buildings will be over forty feet in height, as measured from the highest point on the building to the lower of either existing or finished grade (these range from 40.39 feet to 46.39 feet).

Site access will be provided via a town road from Old Military Road past the cemetery into the site from the south, and via a town road from NY Route 73 into the site from the east. The project will involve site clearing and grading, general site construction for roads, sidewalks, parking areas and buildings, construction of stormwater management areas, landscaping, and supporting infrastructure construction. In addition, the project will involve construction of an approximately 4,850 linear feet of 6-inch ductile iron pipe water main and 2,500 feet of one-inch copper pipe water service. Ten fire hydrant assemblies are included as part of the infrastructure.

The project is shown on 22 sheets of drawings referenced as follows:

Survey Map	S-1
Road & Parking Lot Layout Plans	CLA 1-3
Road Grading & Drainage Plans	CLA 4-6
Road Profiles	CLA 7-8
Utility Plans	CLA 9-11
Sanitary Sewer Profiles	CLA 12-13
Water Main Profiles	CLA 14-15
Utility Details	CLA 16-17
Electrical Layout Plan	CLA 18
Grading & Pond Details	CLA 19
Planting Plans	CLA 20-22

The Survey Map was prepared by Marvin Land Surveying and last revised December 15, 2010. All of the other plans were prepared by CLA Site Landscape Architecture, Engineering & Planning, P.C. and last revised March 4, 2011 (except for Utility Details, CLA 16 and 17, last revised December 16, 2010, and Grading & Pond Details, CLA 19, last revised March 29, 2007). Reduced scale copies of sheets CLA 1, 2 and 3 are 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

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(s), 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 2006-323 issued April 20, 2011, 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.

Building Location and Size

4. This permit authorizes the construction of 30 residential buildings in the locations shown on the project plans approved herein. No structure shall exceed the footprints

or the height detailed on the project plans approved herein unless prior written approval for an amended site plan is received from the Agency and the Town of North Elba/Village of Lake Placid Joint Review Board. Buildings are limited to the heights shown in the following chart, as measured from the highest point on the structure, including any chimney, to the lowest point of existing grade or finished grade, whichever is lower.

**Building Height Summary
Rangeview Development**

Building	Height
1	32.89'
2	33.39'
3	31.89'
4	41.89'
5	42.39'
6	34.89'
7	31.89'
8	41.89'
9	40.39'
10	30.89'
11	46.39'
12	43.39'
13	40.89'
14	40.89'
15	41.39'
16	39.05'
17	33.89'
18	39.55'
19	38.89'
20	34.39'
21	37.39'

Valley View Development

Building	Height
A	33.13'
B	29.43'
C	34.23'
D	34.73'
E	29.68'
F	34.93'
G	36.13'
H	33.53'
I	37.03'

Building Color

5. All materials, including roof, siding and trim, used to surface the exterior of any structure on the project site shall be of a color that blends with the existing vegetation.

Outdoor Lighting

6. Any new free-standing or building mounted outdoor lights shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky, toward NY Route 73 (Cascade Road), or toward adjoining property.

Wastewater Treatment

7. No residential unit constructed pursuant to this permit shall be used or conveyed until the unit has been connected to the Village of Lake Placid municipal wastewater collection and treatment system pursuant to a certificate of occupancy issued by the Town.

Water Supply

8. No residential unit constructed pursuant to this permit shall be used or conveyed until the unit has been connected to the Village of Lake Placid municipal water supply system pursuant to a certificate of occupancy issued by the Town.

Visual/Open Space Protection

9. Within 40 feet of the property line adjacent to NY Route 73, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed except: 1) an approximately 80 foot wide area for construction of the entry road; 2) to allow for utility installations; and 3) the six foot wide recreational trail, all as depicted on the plans approved herein. This condition shall not be deemed to prevent the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.

Legal Interests of Others

10. This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project or subdivision, nor does it authorize the

impairment of any easement, right, title or interest in real or personal property held or vested in any person.

Agency Review of Future Subdivision and Development

11. No further subdivision or land use and development shall occur on the project site without an Agency non-jurisdictional determination or permit.

Erosion & Sediment Control

12. Prior to undertaking any earthwork on the site within 50 feet of the 0.62 acre "wetland area" depicted on Sheet S-1, "Survey Map," silt fence shall be properly installed parallel to the existing contours between the construction site and this resource. The silt fence shall be embedded into the earth a minimum of six inches and shall be a minimum of twenty feet from this resource wherever possible. The silt fence shall be maintained throughout construction and shall not be removed until after all disturbed soils are stabilized to prevent siltation. The applicants or their successors in interest shall inspect the fabric at least once a week and after every major storm event to ensure the fabric and supports are intact and to remove accumulated sediments so as to maintain the fence in a functional manner.
13. The final Stormwater Pollution Prevention Plan shall be adhered to throughout construction. Post construction maintenance of the stormwater management devices shall be performed by the applicant or the Homeowners' Associations, as required by the Association documents, unless this responsibility is transferred to the Town of North Elba.

Energy Conservation

14. At a minimum, all residential units shall be designed and constructed to comply with the Energy Conservation Construction Code of New York State, 2007, or the current version in effect at the time when the units are constructed. This will include use of properly selected, installed and inspected insulation, high performance windows, tight building envelope construction and duct work, and efficient heating and cooling equipment.
15. All developer-constructed buildings and facilities shall use the highest rated Energy Star products, including light fixtures, appliances, and equipment, to the maximum extent possible. The Energy Star standards current at the time of each building's construction shall be implemented.

Condominium Associations

16. The applicant shall provide to the Agency for review and approval a copy of all finalized Condominium Association documents. The applicant shall implement any changes to these documents required by the Agency prior to recording.

Signage

17. Any signs on the project site shall comply with 9 NYCRR Appendix Q-3 of the Adirondack Park Agency Regulations. A final sign plan shall be submitted to the Agency for approval in the form of a letter of permit compliance prior to installation.

FINDINGS OF FACT

Background/Prior History

1. As of the May 22, 1973, enactment date of the Adirondack Park Land Use and Development Plan, the project site constituted a portion of a larger, approximately 52.7-acre property owned by John W. and Grace J. Pulaski. As described in Agency letter J2003-83, issued April 9, 2003, the project authorized herein will result in the creation of more than 100 residential units from this larger property.

Existing Environmental Setting

2. The project site is located within the Village of Lake Placid Commercial-Business zoning district, adjacent to Cascade and Old Military Roads, in a Hamlet land use area pursuant to the Adirondack Park Land Use and Development Plan Map. The site consists mainly of undeveloped land adjacent to existing residential, commercial, and municipal uses, including professional offices, retail shops, an automobile repair and rental facility, several hotels, a highway garage, a solid waste transfer station, and the municipal airport.
3. Approximately 16.4 acres of the project site are proposed for construction. The majority of these 16.4 acres has slopes ranging between 1 and 40 percent. On-site soils consist mainly of Monadnock fine sandy loam, Berkshire fine sandy loam, and Adams loamy fine sand, which are all listed as well drained soils within hydrologic soils groups A and B. Naumberg loamy sand is also located on the site. The depth to the high groundwater table is generally over ten

feet from grade.

Public Notice and Comment

4. The Agency notified all adjoining landowners and those parties as statutorily required by § 809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. No comments have been received.

Other Regulatory Permits and Approvals

5. The Town of North Elba/Village of Lake Placid Joint Review Board completed its review of the project after a public hearing on October 18, 2006. In an October 27, 2006 letter to the applicant, the Joint Review Board stated that the project was approvable as presented, and that the Board is supportive of the long-range goals of the project. The letter also states that the issuance of the APA permit will trigger the release of final Town and Village approvals.

Economic/Fiscal Factors

6. Materials submitted with the application indicate that the Valley View residential units are intended to provide workforce housing for local residents.
7. The following service providers have reviewed the potential impacts of the project and have indicated that their respective systems/facilities have the capacity to serve the project: Lake Placid Fire Department, Lake Placid Volunteer Ambulance Service, Inc., Lake Placid Central School, Lake Placid Village, Inc. (with regard to municipal water and sewer capacity and municipal electric, noting a current ban on electric boilers), Essex County Department of Public Works (specifically with regard to the use of County Route 35 (Old Military Road)), Essex County Sheriff's Office, NYS Police Troop B Headquarters, NYS Department of Transportation, and NYS Department of Environmental Conservation Division of Fish, Wildlife & Marine Resources (noting no known occurrences of rare or state-listed animals or plants, significant natural communities or significant habitat per the New York Natural Heritage Program databases).
8. Materials submitted with the application indicate that eighteen full time employees and four seasonal workers will be needed at full build-out of the project. The applicant's local construction company will construct the buildings.

PROJECT IMPACTS

Wetlands

9. There are no jurisdictional wetlands located on the project site. The hydrology and habitat value of the non-jurisdictional drainage feature on the site will be maintained by proper implementation of the stormwater management plan and use of silt fence.

Land Resources

10. No impact on soils, slopes or agricultural land is anticipated as a result of the development of the project. However, maintenance of the stormwater devices as described in the Stormwater Pollution Prevention Plan and conditioned herein is vital to insure their proper long term operation.

Open Space/Aesthetics

11. The project site is located adjacent to the heavily traveled NY Route 73 highway corridor in a developed Hamlet setting. In this context, no significant impact to the open space or aesthetic resources of the park is anticipated as a result of the development of the project.

Operational Issues Affecting Nearby Land Uses

12. The long term use of the site for residential purposes will not have an impact on nearby land uses, given the setting of the project in a Hamlet with the existing nearby development.

Historic Sites or Structures

13. The NYS Office of Parks, Recreation and Historic Preservation has provided two letters (dated December 14, 2004 and July 20, 2006) stating that the project will have no impact on cultural resources in or eligible for inclusion in the State and National Registers of Historic Places. Therefore 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.



RESOLUTION
OF THE
ADIRONDACK PARK AGENCY
ON
DELEGATING CERTAIN POWERS
AND
RESPONSIBILITIES

Last Amended April 15, 2011

TABLE OF CONTENTS

	<u>Page</u>
I. POWERS RESERVED TO THE AGENCY	3
II. AUTHORITY OF THE AGENCY CHAIRPERSON BETWEEN AGENCY MEETINGS	4
III. GENERAL POWERS AND AUTHORITY OF THE EXECUTIVE DIRECTOR	5
IV. AUTHORITY OF THE DEPUTY DIRECTOR REGULATORY PROGRAMS	7
V. AUTHORITY OF THE DEPUTY DIRECTOR PLANNING	9
VI. AUTHORITY OF THE COUNSEL	12
VII. MEETINGS OF THE AGENCY	
A. Regular Meetings	13
B. Special Meetings	14
C. Agenda	14
D. Rules of Procedure	14
VIII. COMMITTEES OF THE AGENCY	
A. Appointment of Standing Committees	15
B. Appointment of Ad Hoc Committees and Advisory Task Forces	15
C. Standing Committees of the Agency - Functions and Responsibilities	16
1. Administration	16
2. Regulatory Programs	17
3. Legal Affairs	19
4. Park Policy and Planning	21
5. Enforcement	22
6. Economic Affairs	23
7. Public Awareness and Communications	24
8. Park Ecology	26
9. Local Government Services	27
10. State Land	28
IX. PROCEDURES FOR THE REVIEW OF PRIOR AGENCY ACTIONS	
A. Reconsiderations	29
B. Appeals	29
X. AMENDMENT AND SUPERSESSION	30
XI. REPEAL OF PREVIOUS RESOLUTION	30

WHEREAS, in addition to those procedures set forth in, and delegations made by rule and regulation, the Agency desires to establish certain additional procedures and delegate certain additional responsibilities in order to conduct business in an efficient manner.

NOW, THEREFORE, BE IT RESOLVED, pursuant to Sections 803, 804 and 809(14) of the Adirondack Park Agency Act, Section 15-2709 of the Wild, Scenic and Recreational Rivers System Act, and Section 24-0801 of the Freshwater Wetlands Act, the Agency delegates the responsibilities and establishes the procedures that follow:

I. POWERS RESERVED TO THE AGENCY

The Agency reserves to itself all lawful authority not delegated by the Agency Rules and Regulations or this resolution, including but not limited to the following:

- A. To review and approve, to approve subject to conditions, to grant permits with respect to, and to determine whether to hold a public hearing with respect to, all projects subject to Agency jurisdiction other than those with respect to which authority to act has been delegated by the Agency Rules and Regulations or this resolution.
- B. To exercise exclusive authority to disapprove projects after public hearings.
- C. To review and take final action concerning all requests for variances.
- D. To review and take final action concerning initial approval of all local land use programs.
- E. To review and make final determinations of consistency with the Adirondack Park State Land Master Plan for individual Unit Management Plans prepared by NYS DEC and other State agencies.
- F. To amend the Adirondack Park State Land Master Plan and, in consultation with NYS DEC, to interpret its guidelines and criteria for the management of State lands in the Park.
- G. To make final recommendations to the Governor regarding the classification and reclassification of State lands in the Park.

- H. To review and take final action concerning all amendment requests and technical amendments to the Adirondack Park Land Use and Development Plan map, except for corrections which have been delegated to the Deputy Director for Planning as per Section V.K. below.
- I. To review and take final action concerning all proposals to modify, suspend, or revoke permits and alleged violations of the Freshwater Wetlands Act pursuant to Subparts 581-3 and 581-4 of the Rules and Regulations.
- J. To approve and issue all final environmental impact statements required by the State Environmental Quality Review Act, 6 NYCRR Part 617 and the Agency's SEQR regulations.
- K. To review and approve any disciplinary action proposed to be taken by the Agency Chairperson or Executive Director with respect to the Executive Director, Deputy Director Regulatory Programs, Deputy Director Planning, or Counsel.

II. AUTHORITY OF THE AGENCY CHAIRPERSON BETWEEN AGENCY MEETINGS

The Agency Chairperson shall have authority to conduct Agency business not specifically delegated to staff between Agency meetings, provided, however, that with respect to matters falling within the jurisdiction of the Standing Committees of the Agency, the Agency Chairperson shall consult with the Chairperson of the respective Standing Committee prior to exercising any such authority.

III. GENERAL POWERS AND AUTHORITY OF THE EXECUTIVE DIRECTOR

The Executive Director, under the supervision of the Agency Chairperson, shall have authority to exercise the following powers pursuant to the Adirondack Park Agency Act, NYS Wetlands Act and NYS Wild, Scenic and Recreational Rivers System Act, on behalf of the Agency:

- A. With the advice of the Agency and consent of the Agency Chairperson, to appoint or remove the Deputy Director Regulatory Programs, Deputy Director Planning, and Counsel.

- B. To appoint or remove all other employees of the Agency as provided for by the rules and regulations of the Department of Civil Service and the Director of the Division of the Budget.
- C. To direct and supervise all management staff of the Agency.
- D. To direct staff participation in the support of Agency involvement in Federal, State and regional task forces, work groups, conferences and meetings relevant to implementation of the APA Act or dealing with significant policy issues of concern to the Agency.
- E. To direct and supervise staff in functions related to public outreach and press relations.
- F. To supervise Agency programs authorized under the Adirondack Park Agency Act, NYS Wetlands Act and NYS Wild, Scenic and Recreational Rivers System Act. Wetlands determinations pursuant to Part 578 of Agency regulations will be managed by the Supervisor of the Agency's Resource Analysis and Scientific Services Division.
- G. To develop and implement personnel and other State operations policies consistent with the policies, procedures or advice of the Governor's Office of Employee Relations and NYS Department of Civil Service.
- H. To prepare, in consultation with the Agency Chairperson and Administrative Officer, the annual Agency budget request for submission to the Division of Budget and to monitor expenditures and compliance with DOB budget requirements and upon request, to advise Agency members on the status of the budget and related annual expenditures.
- I. To make and execute contracts and all other instruments necessary or convenient for the exercise and fulfillment of the Agency's powers and responsibilities, including but not limited to contracts for professional and technical assistance, and to accept any assistance, including gifts, grants, loans or funds or property from the Federal Government or any agency or instrumentality thereof, or from public and private sources, subject, where

required, to the approval of the Director of the Division of the Budget.

- J. To exercise the authority and responsibility with respect to Agency enforcement provided by Section 581-2.3 of the Rules and Regulations.
- K. In consultation with the Agency Chairperson, Chairperson of the Legal Affairs Committee or Chairperson of the Enforcement Committee and Agency Counsel, to request that the Attorney General appear on behalf of the Agency in any action brought against it.
- L. To file documents required by law to be filed by the Agency.
- M. To make determinations of significance or non-significance, to accept final environmental impact statements and to make findings on behalf of the Agency pursuant to the State Environmental Quality Review Act, 6 NYCRR Part 617, and Part 586 of Agency Rules and Regulations.
- N. To determine whether a variance granted from the provisions of an approved local land use program involves provisions of the Land Use and Development Plan, and if so, to determine whether the variance should be reversed by the Agency pursuant to Section 808 (3) of the Adirondack Park Agency Act and to reverse it on behalf of the Agency.
- O. To exercise any or all of the authority granted to the staff by the Agency Rules and Regulations or by this resolution.

IV. AUTHORITY OF THE DEPUTY DIRECTOR REGULATORY PROGRAMS

The Deputy Director Regulatory Programs, under the supervision of the Executive Director, shall have authority to exercise the following powers on behalf of the Agency:

- A. To approve projects in accordance with Section 809 of the Adirondack Park Agency Act, and as specified in Section 572.11 of the Rules and Regulations, and to approve determinations with respect to projects

by State agencies called for in Section 579.3(d) of the Rules and Regulations.

- B. To determine whether State agency projects are subject to Agency review jurisdiction pursuant to Section 814 of the Adirondack Park Agency Act, and to determine either (a) that the project would not be inconsistent with the Adirondack Park Land Use and Development Plan and the shoreline restrictions and would not have an undue adverse impact as described in that section, or (b) that the project should be reviewed by the full Agency.
- C. To schedule public hearings on projects where the Uniform Procedures Act time limitation for doing so would expire prior to the next regularly scheduled Agency meeting.
- D. To schedule public hearings on shoreline restriction variance applications and to issue a notice of intent to hold, and to schedule, a hearing to consider both the variance and the project, in the case of any project application involving a variance. The Deputy Director Regulatory Programs shall report the exercise of the power granted by paragraphs A, B, and C at or prior to each regularly scheduled meeting of the Agency.
- E. To direct and supervise the Project Review Staff in the conduct of consultation with project sponsors, both with respect to preliminary and informal plans for proposed projects, and with respect to the rendering of staff recommendations in regard to such proposals; in the receipt and processing of applications for project permits and variances; in the determination of the completeness of applications, and the notification of applicants; in site inspections necessary to the performance of Agency responsibilities; in the staff review of applications and the formulation of final staff recommendations to the Agency.
- F. To develop, review and monitor programs and projects established to evaluate compliance with Agency permit and variance conditions, and to make appropriate referrals to the Agency's enforcement program for any actions determined to be potential violations.

- G. To determine questions involving compliance by project sponsors with conditions imposed in a notification of determination precedent to, and subsequent to the issuance of a permit, and to issue project permits following compliance.
- H. With the consent of the Executive Director, to authorize members of the staff to sign and issue notices of completion and incompleteness in the absence of the Executive Director and Deputy Director.

In the event of the absence or incapacitation of the Executive Director, the Deputy Director Regulatory Programs, as the Deputy Director of the Agency, shall, under the supervision of the Agency Chairperson, have the authority to exercise those powers delegated to the Executive Director.

V. AUTHORITY OF THE DEPUTY DIRECTOR PLANNING

The Deputy Director Planning, under the supervision of the Executive Director, shall have the authority to exercise the following powers on behalf of the Agency:

- A. To initiate, guide and supervise staff review, analysis, commentary and staff recommendations on Unit Management Plans prepared by the Department of Environmental Conservation pursuant to the State Land Master Plan.
- B. In the absence of approved Unit Management Plans, to determine if proposed construction, reconstruction and/or rehabilitation activities on State land constitute ordinary maintenance, rehabilitation or minor relocation within the meaning of the Master Plan for the Management of State Lands.
- C. To monitor implementation of Memorandum of Understandings between the Agency and the Department of Environmental Conservation, and other State agencies with respect to State Land management.
- D. To initiate the process and supervise staff in the development of analysis and staff recommendations on proposed classifications for newly acquired State lands, or reclassification of existing State lands as provided in the State Land Master Plan.

- E. To initiate the process and supervise staff on proposed changes or revisions to the State Land Master Plan.
- F. To initiate and supervise staff on the review of DEC policies for management of the Forest Preserve for consistency with the State Land Master Plan and pursuant to Section 816 of the Adirondack Park Agency Act.
- G. To initiate and supervise staff in the development of draft policies and/or research which will contribute to improved State land management and appropriate recreational use and enjoyment of State lands in the Park.
- H. To schedule and to hold public hearings on applications to amend the Official Adirondack Park Land Use and Development Plan Map. The Deputy Director Planning may in his or her discretion refer any such amendment to the Agency. The Deputy Director Planning shall report the exercise of the power granted by this paragraph at each regularly scheduled meeting of the Agency.
- I. To undertake all notices and actions necessary to amend the Official Adirondack Park Land Use and Development Plan Map in cases where the amendment is made pursuant to Section 805(2)(c)(4) of the Adirondack Park Agency Act to correct errors in the classification of State land as private land, or vice-versa, where such correction involves no exercise of discretion, and upon consultation and when there is concurrence of the Executive Director, Agency Chairperson and Park Policy Chairperson. The Deputy Director Planning shall include in the Division's monthly report any exercise of the delegation contained in this paragraph and provide the information at a regularly scheduled meeting of the Agency for its approval. Following approval by the Agency, the Deputy Director for Planning shall arrange for filing of the technical amendments pursuant to Section 805 of the Adirondack Park Agency Act.
- J. The Deputy Director Planning may refer any such amendment to the Agency for decision, and shall refer amendments where private land is erroneously classified as State land and where alternate land use classification choices are involved and a vote

of the Agency is required to determine the appropriate private land use classification for the land in question.

- K. To supervise staff in the management of the Agency's GIS system, including but not limited to making interpretations of boundary lines between land use areas and making simple, non-discretionary updates to the official Park Maps and GIS data.
- L. To execute orders effecting the amendment of the Official Adirondack Park Land Use and Development Plan Map and to direct the filing of such amendments.
- M. To direct and supervise the Planning Staff in the conduct of consultations with applicants for map amendments and the rendering of staff recommendations in regard to such applications; in the determination of the completeness of applications, and the notification of other landowners or interested parties; in site inspections necessary to the performance of Agency responsibilities in the staff review of applications and the formulation of final staff recommendations to the Agency.
- N. To direct and supervise the Planning staff when advising other Agency staff and/ or landowners regarding regional boundary locations established by the official Adirondack Park Land Use and Development Plan map.

In the event of the absence or incapacitation of the Executive Director and the Deputy Director Regulatory Programs, the Deputy Director Planning, as a Deputy Director of the Agency, shall, under the supervision of the Agency Chairperson, have the authority to exercise those powers delegated to the Executive Director.

VI. AUTHORITY OF THE COUNSEL

The Counsel to the Agency, under the supervision of the Executive Director, shall provide legal counsel to the Agency, its members and staff concerning the exercise of the powers and duties assigned by law. Counsel shall have the specific authority to:

- A. To interpret the statutes and regulations administered by or affecting the Agency and prepare

opinions related thereto as appropriate or at the request of the Agency or staff.

- B. To supervise staff attorneys on all legal matters, including but not limited to legal support to other Agency divisions; interpretation of the APA Act, the NYS Freshwater Wetlands Act as applied in the Park, and the Wild, Scenic and Recreational Rivers System Act; interpretation of rules and regulations; litigation; Freedom of Information Law procedures; advice on conformance with State Environmental Quality Review and State Administrative Procedures Act process;
- C. To coordinate and assist staff in the delivery of public education and workshops on Agency regulations;
- D. To supervise staff attorneys in the analysis of Federal and State laws and pending legislation;
- E. To supervise advice to the public regarding the jurisdiction of the Agency over new subdivisions, and new land use and development in the Adirondack Park.
- F. To determine the preexistence of subdivisions under the Adirondack Park Agency Act and Agency Rules and Regulations.
- G. To supervise revisions to the Rules and Regulations governing the Agency, including but not limited to compliance with all requirements of the State Administrative Procedures Act.
- H. To supervise the preparation and filing of documents in administrative legal proceedings on behalf of the Agency, and provide liaison with and assist the Attorney General or other legal counsel with such filings in court proceedings involving the Agency.
- I. To supervise the provision of legal guidance in the administration of the Agency's programs.
- J. In consultation with the Agency Chairperson and Executive Director, to work with the Governor's Counsel in Executive Department matters involving the Agency, including but not limited to the legislative program of the Agency.

In the event of the absence or incapacitation of the Counsel, the Associate Counsel shall, under the guidance of the Agency Chairperson and the Executive Director, have the authority to exercise those powers delegated to and exercised by Counsel.

VII. MEETINGS OF THE AGENCY

A. REGULAR MEETINGS

Regular monthly meetings of the Agency shall be held as either one or two-day meetings on a Thursday and/or Friday of each month, and in accordance with a calendar which will be published not later than September of the previous calendar year, unless otherwise determined by the Agency Chairperson, at such location and time to be determined by the Agency Chairperson and the Executive Director. Reasonable advance notice shall be given by the Agency Chairperson and Executive Director to each Agency Member and Designee of the date, time and location of each such regular monthly meeting, and, to the extent possible, of the items of business expected to be considered. All Agency Board meetings will be held in public session consistent with NYS Open Meetings Law and will be webcast and archived on the Agency web page according to records retention guidelines. Draft Agency meeting materials will be posted on the Agency web site for public review the week prior to the Agency meeting.

B. SPECIAL MEETINGS

Special meetings of the Agency may be held from time to time either at the request of the Agency Chairperson, or at the request of any four Members of the Agency, at such location as determined by the Agency Chairperson or Executive Director, on such date and at such time as shall be determined by the Executive Director within seven days of the request. Reasonable advance notice shall be given by the staff to each Agency Member and Designee of the date, time and location of each such special meeting, and of the items of business expected to be considered.

C. AGENDA

The Agency Chairperson or Executive Director is authorized to make up Agency meeting and Standing Committee agendas, and, unless an already lengthy agenda precludes its consideration, shall add to a Committee agenda any item requested by the Chairperson of the Standing Committee.

D. RULES OF PROCEDURE

In conducting its meetings, the Agency will be guided by "The Modern Rules of Order, Second Edition" or as specifically directed by the Agency Chairperson consistent with the Open Meetings Law and other authorities governing meetings of the Agency. The statutory quorum of the Board is six of its members.

VIII. COMMITTEES OF THE AGENCY

A. APPOINTMENT OF STANDING COMMITTEES

With the concurrence of five Members of the Agency, the Agency Chairperson is authorized to appoint Standing Committees of Agency Members as specified in Sections 572.12, 581-2.1, and 583.6 of the Rules and Regulations and as specified herein, and to designate a Member other than himself or herself, with the exception of the Administration Committee which shall be chaired by the Agency Chairperson, as the Chairperson of each Committee. A Committee shall consist of at least three Agency members. The Agency Chairperson may, in his or her discretion, sit as a voting Member of any Standing Committee, and, in the absence of the Standing Committee Chairperson, may designate any Agency Member, including himself or herself, as acting Chairperson. The Commissioner of Environmental Conservation, the Commissioner of Economic Development and the Secretary of State may designate a deputy or other officer to exercise his or her other powers and perform his or her duties, including the right to vote, on any Standing Committee to which he or she has been appointed by the Agency Chairperson. In the event multiple Designees of these Ex-officio Members participate in a meeting of the Agency or its Standing Committees, only one individual may be

designated to vote on behalf of the Ex-Officio member at the same time.

B. APPOINTMENT OF AD HOC COMMITTEES AND ADVISORY TASK FORCES

With the concurrence of five Members of the Agency, the Agency Chairperson is authorized to appoint ad hoc Committees of Agency Members and advisory task forces consisting of Agency Members, citizens of the Adirondack Park, local or state officials and such other Members as he or she may deem appropriate for the purpose of investigating and analyzing any issues and problems relevant to the business of the Agency.

In order to provide an effective voice in inter-agency communications, Statewide and regional committees or Federal Task Forces or Advisory Groups, the Agency Chairperson will participate in membership on significant national, Statewide and regional task forces, work groups, conferences and meetings convened by the Governor, other State agencies, the Federal government or regional organizations which are convened to discuss significant policy issues relevant to the Agency's responsibilities under the Adirondack Park Agency Act and which are meant to advance key Park policy issues and concerns. The Agency Chairperson may delegate participation on such task forces and work groups to another Agency member or staff.

C. STANDING COMMITTEES OF THE AGENCY - FUNCTIONS AND RESPONSIBILITIES

Agency committees shall meet in combined session on matters of joint interest, as determined appropriate by the Agency Chairperson in consultation with the Committee chairpersons. The following Standing Committees have been established with membership to be reviewed periodically and determined by the Agency Chairperson in consultation with Agency members:

1. ADMINISTRATION COMMITTEE

There is hereby established an Administration Committee. The Administration Committee shall consist of the Agency Chairperson, and the Legal Affairs and Park Policy & Planning Chairpersons.

The Administration Committee shall:

- (a) Advise the Agency Chair and Executive Director on annual budget preparation.
- (b) Review and update revisions to the Agency Delegation Resolution as needed.
- (c) In consultation with the Executive Director, review Agency policies and procedures which the Executive Director refers to the Committee for input and advice.
- (d) Provide advance planning and input to the Executive Director on Agency meeting procedures and agendas.

The Administration Committee shall report with respect to any business taken up by it to the whole Agency. The Agency may ratify, modify, or reverse any Committee action.

The Administration Committee may, at the request of the Agency, the Agency Chairperson, the Executive Director, or on its own initiative, take up other matters not specifically enumerated herein but within the general scope of the duties imposed hereby.

2. REGULATORY PROGRAMS COMMITTEE

The Regulatory Programs Committee, established by Section 572.12 of the Rules and Regulations, shall:

- (a) Monitor staff review of applications for project permits or other determinations submitted to the Agency under Sections 809 and 814 of the Adirondack Park Agency Act; the Wild, Scenic and Recreational Rivers System Act; and the Freshwater Wetlands Act. The Committee will act on those applications directed to the Agency for decision by Section 572.11 of the Rules and Regulations and this resolution, and by the Deputy Director Regulatory Programs or at the request of one or more Agency members.

- (b) Monitor staff review of applications for variances of the provisions of Section 806 of the Adirondack Park Agency Act and the Wild, Scenic and Recreational Rivers System Act.
- (c) Re-evaluate, at the request of the project sponsor, the terms and conditions of permits issued by the Deputy Director Regulatory Programs.
- (d) Advise the Agency on the reconsideration of Agency actions with respect to projects or variances, except for appeals of prior decisions of the Agency on a project or variance where no new information is sought to be provided and the application is not otherwise amended or revised.
- (e) Guide the staff in the preparation of testimony to be offered on behalf of the Agency in any proceeding before the Public Service Commission or other public body to which the Agency is a party.
- (f) Determine pursuant to Section 574.8 of the Rules and Regulations whether structures are suitable for conversion, may be converted to new structures through removal or demolition or may be converted to more than one residential unit.
- (g) Monitor the revision and simplification of Agency project and variance forms and procedures.
- (h) Monitor operation of the interagency coordinated project review system and recommend changes therein.
- (i) Regularly monitor and evaluate compliance with the terms and conditions of permits, variances, or other determinations issued by the Agency.

The Regulatory Programs Committee shall report its decisions or determinations with respect to any business taken up by it to the whole Agency. The Agency may ratify, modify, or reverse any Committee action.

The Regulatory Programs Committee may, at the request of the Agency, the Agency Chairperson, its Chairperson, the Executive Director, or on its own initiative, take up other matters not specifically enumerated herein but within the general scope of the duties imposed hereby.

3. LEGAL AFFAIRS COMMITTEE

There is hereby established a Legal Affairs Committee. The Legal Affairs Committee shall:

- (a) Advise Counsel and the Agency Chairperson regarding an annual Agency legislative program and monitor legislative activity of interest to the Agency, assist the Agency Chairperson, Executive Director and Counsel to maintain liaison with the Governor, Legislature, state agencies and interest groups on legislative and other legal matters.
- (b) Advise Agency Counsel regarding revisions to Agency rules and regulations and recommend to the Agency periodic revisions for consideration pursuant to the State Administrative Procedures Act.
- (c) In consultation with Counsel, monitor liaison with the Attorney General with reference to litigation involving the Agency, and, in consultation with the Agency Chairperson, advise Counsel and the Attorney General concerning conduct of litigation.
- (d) At the request of the Agency Chairperson, the Chairperson of the Local Government Services Committee or Agency Counsel, perform initial review of the legal elements and aspects of local land use programs and local freshwater wetlands protection ordinances submitted to the Agency for approval.

- (e) In consultation with Counsel, monitor and interpret the laws and regulations administered by or affecting the Agency, including but not limited to jurisdictional determinations, and legal guidance published in Agency flyers and on its website.
- (f) In consultation with Counsel, monitor and interpret the Agency's compliance with State laws such as Open Meetings, Freedom of Information Law and Public Officers Law, which affect administration and implementation of Agency programs and responsibilities.
- (g) In consultation with Counsel, monitor Agency legal relations with local, state and federal agencies.
- (h) At the request of the Agency Chairperson, the Chairperson of the State Land Committee or Agency Counsel, advise State Lands Committee regarding UMP and SLMP legal considerations.

The Legal Affairs Committee shall report its decisions or determinations with respect to any business taken up by it to the whole Agency. The Agency may ratify, modify, or reverse any Committee action.

The Legal Affairs Committee may, at the request of the Agency, the Agency Chairperson, its Chairperson, the Executive Director or at its own initiative, take up other matters not specifically enumerated herein but within the general scope of the duties imposed hereby.

4. PARK POLICY AND PLANNING COMMITTEE

The Park Policy and Planning Committee, established by Section 583.6 of the Rules and Regulations, shall:

- (a) Serve as a forum for issues of Park-wide concern and for the development of new

Agency policies related to administration and implementation of the APA Act.

- (b) Review staff recommendations on applications for amendments of the Official Adirondack Park Land Use and Development Plan Map submitted to the Agency pursuant to Section 805 of the Adirondack Park Agency Act.
- (c) Provide guidance to staff in the preparation of specific long-range goals and objectives to carry out the legislative policies, findings and purposes of Section 801 of the Adirondack Park Agency Act, Section 15-2701 of the Wild, Scenic and Recreational Rivers System Act, and Sections 24-0103 and 24-0105 of the Freshwater Wetlands Act.
- (d) Monitor the continual staff review and evaluation of the Adirondack Park Land Use and Development Plan as an ongoing planning process in the light of changing needs and conditions.
- (e) Review any staff proposed revisions and simplification of Agency map amendment forms and procedures.
- (f) Monitor and review Agency relations with other planning agencies and initiatives at the local, state and federal level.

The Park Policy and Planning Committee shall report its decisions or determinations with respect to any business taken up by it to the whole Agency. The Agency may ratify, modify, or reverse any Committee action.

The Park Policy and Planning Committee may, at the request of the Agency, the Agency Chairperson, its Chairperson, the Executive Director, or on its own initiative, take up other matters not specifically enumerated herein but within the general scope of the duties imposed hereby.

5. ENFORCEMENT COMMITTEE

The Enforcement Committee established by Section 581-2.1 of the Rules and Regulations, shall in cases not resolved by agreement between Agency staff and the alleged violator:

- (a) Determine the cause, nature and scope of violations of the statutes and regulations administered by the Agency and establish the terms and conditions of settlement agreements.
- (b) Monitor settlement agreements executed by the Agency.
- (c) Monitor liaison with the Attorney General with reference to enforcement litigation involving the Agency, and, in consultation with the Agency Chairperson, advise the Counsel and Attorney General concerning conduct of such litigation.
- (d) Review all proposals to modify, suspend or revoke permits and alleged violations of the Freshwater Wetlands Act pursuant to Subparts 581-3 and 581-4 of the Rules and Regulations and make recommendations to the Agency for consideration.

The Enforcement Committee shall also provide general policies and guidelines to staff regarding the general terms and conditions of resolutions by staff of violations resolved by it pursuant to delegated authority.

At the next regularly scheduled meeting of the Agency and after appropriate notification of the involved parties, the Committee shall report to the full Agency in its official minutes regarding its decisions or determinations with respect to any business taken up by it.

The Enforcement Committee may, at the request of the Agency, the Agency Chairperson, its Chairperson, the Executive Director, or on its own initiative, take up other matters not specifically enumerated herein but within the general scope of the duties imposed hereby.

6. ECONOMIC AFFAIRS COMMITTEE

There is hereby established an Economic Affairs Committee. The Economic Affairs Committee shall:

- (a) Review information concerning economic growth within the Park.
- (b) Encourage environmentally sound economic growth, consistent with the statutes administered by the Agency.
- (c) In coordination with other state and local agencies, academic institutions and others, assist in the exchange of information on environmentally sound economic growth.
- (d) Encourage forest products and agricultural growth in the Adirondack Park, and identify other economic enterprises which are compatible with the character and resources of the Adirondack Park and consistent with the statutes administered by the Agency.
- (e) Participate in the development of strategies to promote tourism in the Adirondack Park.
- (f) Encourage the revitalization of Adirondack hamlets.

The Economic Affairs Committee shall report with respect to any business taken up by it to the whole Agency. The Agency may ratify, modify, or reverse any Committee action.

The Economic Affairs Committee may, at the request of the Agency, the Agency Chairperson, its Chairperson, the Executive Director, or on its own initiative, take up other matters not specifically enumerated herein but within the general scope of the duties imposed hereby.

7. PUBLIC AWARENESS AND COMMUNICATIONS COMMITTEE

There is hereby established a Public Awareness and Communications Committee. The Public Awareness and Communications Committee shall:

- (a) In consultation with the Agency Chairperson and Executive Director, periodically review the Agency's outreach programs, including but not limited to technical and regulatory workshops, press relations, participation in conferences, publications, webcasting and web site development and other web-based communications.
- (b) In consultation with the Agency Chairperson and Executive Director, encourage and promote working relationships with State agencies and regional organizations to improve understanding of the Adirondack Park Agency and its role in protecting the natural and community resources of the Park.
- (c) In consultation with the Chairperson and Executive Director, periodically review public and press relations and provide input into the Agency's public affairs and communications program development.
- (d) Serve as a forum to increase public knowledge of programs and services offered by State agencies, local governments and non-profit organizations which educate the public and students about the Adirondack Park.

The Public Awareness and Communications Committee shall report its decisions and determinations with respect to any business taken up by it to the whole Agency at each regularly scheduled meeting of the Agency. The Agency may ratify, modify, or reverse any Committee action.

The Public Affairs and Communications Committee may, at the request of the Agency, the Agency Chairperson, its Chairperson, the Executive Director, or on its own initiative, take up other matters not specifically enumerated herein but within the general scope of the duties imposed hereby.

8. PARK ECOLOGY COMMITTEE

There is hereby established a Park Ecology Committee. The Park Ecology Committee shall:

- (a) Review staff recommendations for standards and procedures applicable to the scientific and technical aspects of the statutes and regulations administered by the Agency, such as wetland determinations made pursuant to 9 NYCRR 578.3.
- (b) Review staff proposed guidelines and standards for private land development, intended for promulgation, which will help protect natural resource characteristics of the Park by defining generally acceptable methods and limitations for development.
- (c) Monitor staff analysis and reports on ecological issues, including but not limited to issues such as Climate Change and Invasive Species management, which are likely to significantly affect the physical and biotic systems of the Park.
- (d) Promote study and inventory of Park ecological systems as an important component of the Agency's ongoing planning and regulatory responsibilities.
- (e) Provide guidance to staff on the development of and preparation of natural resource educational or interpretive material for use in the Visitor Center programs.
- (f) Encourage the development and strengthening of contacts with scientists working on ecological issues of importance to the Adirondacks.

The Park Ecology Committee shall report with respect to any business taken up by it to the whole Agency at the next regularly scheduled meeting of the Agency. The Agency may ratify, modify, or reverse any Committee action.

The Park Ecology Committee may, at the request of the Agency, the Agency Chairperson, its

Chairperson, the Executive Director, or on its own initiative, take up other matters not specifically enumerated herein but within the general scope of the duties imposed hereby.

9. LOCAL GOVERNMENT SERVICES COMMITTEE

There is hereby established the Local Government Services Committee. The Local Government Services Committee shall:

- (a) Foster sound local planning and encourage cooperation between local governments and Agency.
- (b) Guide the staff in providing assistance to local governments in the preparation of local land use programs.
- (c) Lead the review and coordination of local land use programs, components and amendments, and designated industrial sites pursuant to Section 807.4 of the APA Act and river land management plans.
- (d) Recommend, in coordination with other committees, proposed model provisions and ordinances and educational programs.
- (e) Monitor and evaluate, in coordination with other committees, the administration of Agency-approved local land use programs and the status of Parkwide local planning.
- (f) Consult with the Park Policy and Planning Committee on the adequacy of Comprehensive Master Plans in meeting the criteria provided by section 805(2)(c)(3) of the Act.

The Local Government Services Committee shall report its recommendations or determinations with respect to any business taken up by it to the whole Agency at each regularly scheduled meeting of the Agency. The Agency may ratify, modify, or reverse any Committee action.

The Local Government Services Committee may, at the request of the Agency, the Agency Chairperson, its Chairperson, the Executive Director, or on its own initiative, take up

other matters not specifically enumerated herein but within the general scope of the duties imposed hereby.

10. STATE LAND COMMITTEE

There is hereby established the State Land Committee. The State Land Committee shall:

- (a) Review analysis, commentary and staff recommendations on Unit Management Plans prepared by the Department of Environmental Conservation pursuant to the State Land Master Plan.
- (b) Monitor and assist where appropriate with the implementation of the Memorandum of Understanding between the Agency and the Department of Environmental Conservation with respect to State Lands.
- (c) Review staff proposals and make recommendations to the Agency on proposed classifications for newly acquired State lands, or reclassification of existing State lands as provided in the State Land Master Plan.
- (d) Initiate or review recommended changes to the State Land Master Plan and or DEC policies on management of the Forest Preserve pursuant to Section 816 of the Adirondack Park Agency Act.
- (e) Encourage policies and research which will contribute to improved State land management and appropriate recreational use and enjoyment of State lands in the Park.

The State Land Committee shall report its decisions or determinations with respect to any business taken up by it to the whole Agency at each regularly scheduled meeting of the Agency. The Agency may ratify, modify, or reverse any Committee action.

The State Land Committee may, at the request of the Agency, the Agency Chairperson, its Chairperson, the Executive Director, or on its own initiative, take up other matters not

specifically enumerated herein but within the general scope of the duties imposed hereby.

IX. PROCEDURES FOR THE REVIEW OF PRIOR AGENCY ACTIONS

A. RECONSIDERATIONS

Requests for reconsideration of prior Agency actions which are based upon new information or changed conditions which may materially alter the basis therefore shall be referred initially to the Standing Committee which originally considered the matter.

B. APPEALS

Appeals of prior Agency actions where no new information is sought to be provided shall be made to the full Agency.

X. AMENDMENT AND SUPERSESSION

The Agency may alter or modify any provision of this resolution, either in a specific instance or generally, by taking express inconsistent action by a vote of a majority of its Members at any meeting. In the absence of such express action, these provisions shall remain in effect until amended or repealed.

XI. REPEAL OF PREVIOUS RESOLUTION

The previous resolution of this title, originally adopted May 1974, fully revised October 17, 1980, last amended May 9, 2008, is hereby repealed.

RESOLUTION 2011-3

AMENDMENTS TO THE TOWN OF CHESTER LOCAL LAND USE PROGRAM

April 15, 2011

WHEREAS, the Town of Chester administers a local land use program conditionally approved by the Agency pursuant to Section 807 of the Adirondack Park Agency Act, the Agency having approved said program on February 11, 2005; and

WHEREAS, the proposed amendments were submitted to the Agency for approval by Town Board Resolution #43 dated April 12, 2011; and

WHEREAS, the Town of Chester proposed amendments will revise the Town of Chester Zoning Law to address junk and junkyards; a Friends Lake overlay district; accessory apartments; boundary line adjustments; wetland acreage calculation; to correct a citation; and to revise road grade standards contained in the Subdivision Regulations, as set forth in the attached document; and

WHEREAS, the proposed amendment satisfies the approval criteria set forth in Section 807(2) of the Adirondack Park Agency Act and 9 NYCRR Part 582; and

WHEREAS, the Town, as lead agency, has on April 12, 2011, issued a negative SEQR declaration on the proposed amendments set forth in Town Board Resolution #43;

NOW, THEREFORE, BE IT RESOLVED, that the amendments are hereby approved by the Adirondack Park Agency; and

BE IT FURTHER RESOLVED, that upon filing the local law with NYS Department of State, the Town shall provide a copy of the final version of the document to the Agency's Local Government Services unit so that the Agency may update its copies of the Town's zoning regulations; and

BE IT FINALLY RESOLVED, that the Agency further directs its staff to continue to provide technical assistance to the Town of Chester on their local land use plan and coordination on reviewing projects of regional significance.

Resolution adopted on this date, April 15, 2011.

Ayes: R. Booth, F. Mezzano, C. Stiles, W. Thomas,
F. W. Valentino, C. Wray, J. Fayle (DED),
E. Lowe (DEC), D. Scozzafava (DOS)

Nays: None

Abstentions: None

Absences: A. Lussi, L. Ulrich

Proposed Changes to the
Town of Chester Zoning Law & Subdivision Regulations

March 2011

(in legislative format)

ARTICLE 1 - INTRODUCTORY PROVISIONS

Section 1.01 Short Title.

This Local Law shall be known as the "Town of Chester Zoning Law". The Town of Chester is sometimes hereinafter referred to as the "Town".

...

Section 2.03 Definitions.

A. As used in this Local Law - unless the context otherwise requires:

Accessory apartment - An accessory apartment is a short-term accessory use to a single family dwelling. It is a separate living space within a single family dwelling to be occupied by family members or caregivers. An accessory apartment shall constitute a principal building however it does not need to comply with the density or minimum lot size requirements of the district.

...

Boundary Line Adjustment - The transfer of a small amount of land which consists of less than the minimum lot size required in the zoning district in which it is located and which does not create an additional parcel of land or cause a lot size deficiency in either the granting or receiving parcel. A boundary line adjustment is subject to the provisions of Section 7.22.

...

Junk - used and discarded materials, house furnishings, appliance, machinery, vehicles, or parts thereof, with or without dismantling, processing, salvage, sale or other use or disposition of same.

Junkyard - any open lot or area for the dismantling, storage or sale of ~~such items as parts, scrap, or salvage of used or wrecked motor vehicles, machinery, scrap metals, waste papers,~~

~~logs, used or salvaged building materials, household appliances or other discarded materials. junk.~~

...

ARTICLE 4 - ZONING DISTRICT REGULATIONS

Section 4.01 Zoning Districts.

The Town is hereby divided into the following designated districts.

Section 4.02 Use Regulations.

F. Use Chart - Hamlet (H)

Purpose: To provide compatible commercial services for the hamlets.

Allowed Uses with Zoning Certificate

Accessory uses and structures customarily incidental and subordinate to the principal use	Home Occupation
Bed and Breakfast	Single Family Dwelling
Excavation	Club
	Fraternal Organizations
	Mail Order Business
	Wayside Stand

Subject to Site Plan Review

<u>Accessory Apartment</u>	Garage, Public Government
Agricultural Use	Office or Agency
Agricultural Service Use	Greenhouse, Commercial
Agricultural Use Structure	Kennel
Automobile Service Station	Medical Building
Campground	Professional Office Public or
Church	Semi-Public Building
Commercial Recreation Use	Restaurant, Fast Food
Commercial Use Community Facility	Restaurant, Full Service
Computer Related Facility	Retail Business, General
Day Care Center	Retail Service, Commercial
Dwelling, Multiple Family	School Shopping Center
Dwelling, Townhouse	Tourist Accommodations
Food Store	Waste Treatment Site
Funeral Home	(Municipal Only)
	Watershed management/Flood control project

Any New Land Use or Development, including single family dwellings, in any district on lands at an elevation in excess of

1,400 feet above sea level or on slopes in excess of 15% shall be subject to project review.

For all commercial uses any change of use or any increase in the size of the structure or in the area of lot coverage shall be subject to project review.

See Section 4.03 for dimensional regulations - Hamlet.

G. Use Chart - Moderate Intensity (MI).

Purpose: To provide large lot and waterfront residential use that maintains the natural shoreline environment and strictly protect the quality of the Town's waters, and to provide a variety of commercial uses guided by siting guidelines of Article 7 where major transportation access is of key importance.

Allowed Uses with Zoning Certificate

Accessory uses and structures customarily incidental and subordinate to the principal use	Single Family Dwelling Bed and Breakfast - Accessory Use Dwelling, two family
Accessory Use Structure	Fraternal Organizations
Club	Mobile Home
Excavation	Wayside Stand
Home Occupation	

Subject to Site Plan Review

Accessory Apartment	Day Care Center
Agricultural Service Use	Dwelling, attached
Automobile Service Station	Dwelling, Multiple Family
Bed and Breakfast - Tourist Accommodation	Dwelling, Townhouse
Agricultural Use	Forestry Use
Airport/Heliport	Food Store
Campground	Funeral Home
Church	Government Office or Agency
Commercial Boat Storage	Group Camp
Commercial Use on APA	Garage Public
Compatible	Kennel
Use List (other than those allowed with Zoning Permit above)	Mail Order Business
Commercial Recreation Use	Major Public Utility Use
Community Facility	Marina
Computer Related Facility	Medical Building
	Professional Office
	Restaurant, Fast Food
	Retail Business, Commercial

Public or Semi-Public
Building
Restaurant, Full Service
Retail Business, General
School Shopping Center
Ski Center Tourist
Accommodation

Transient Mobile Home/Travel
Trailer Camp
Waste Treatment Site
(Municipal Only)
Watershed Management/Flood
Control Project
Water Bottling Plant

Any New Land Use and Development, including single family dwellings, in any district on lands at an elevation in excess of 1,400 feet above sea level or on slopes in excess of 15% shall be subject to project review.

For all commercial uses any change of use or any increase in the size of the structure or in the area of lot coverage shall be subject to project review.

See Section 4.03 for dimensional regulations - Moderate Intensity

H. Use Chart - Low Intensity (L)

Purpose: To create an open, rural residential environment.

Allowed Uses with Zoning Certificate

Accessory uses and structures
customarily incidental and
subordinate to the principal
use
Bed and Breakfast - Accessory
Use
Forestry Use
Home Occupation

Mobile Home
Single Family Dwelling
Excavation
Fraternal Organizations
Hunting and/or fishing cabins
under 500 sq. ft.
Wayside Stand

Subject to Site Plan Review

<u>Accessory Apartment</u>	Firing Range
Agricultural Service Use	Funeral Homes
Airport/Heliport	Game Preserve
Bed and Breakfast - Tourist Accommodation	Group Camp
Agricultural Use	Kennel
Church	Major Public Utility Use
Commercial Boat Storage	Marina
Commercial Recreation Use	Marina, Quick Launch
Commercial Use on APA	Water Bottling Plant
Compatible Use List	Private Sand, Gravel or
(other than those allowed with Zoning Permit above	Topsoil Extraction Public or
Commercial Sand and Gravel Extraction	Semi-Public Building
Community Facility	Restaurant, Full Service
Dwelling, attached	Rooming House
Dwelling, Two Family	School Watershed
	Management/Flood Control Project
	Waste Treatment Plant, Public

Any New Land Use or Development, including single family dwellings, in any district on lands at an elevation in excess of 1,400 feet above sea level or on slopes in excess of 15% shall be subject to project review.

For all commercial uses any increase in the structural size or any addition or change in use shall be subject to project review,

See Section 4.03 for dimensional regulations - Low Intensity

I. Use Chart - Rural Use (RU)

Purpose: To create a residential environment that is compatible with open space and traditional rural uses.

Allowed Uses with Zoning Certificate

Accessory uses and structures customarily incidental and subordinate to the principal use	Home Occupation
Agricultural Uses	Mobile Home
Bed and Breakfast - Accessory Use	Single Family Dwelling
Forestry Use	Fraternal Organizations
	Hunting and/or Fishing Cabins under 500 sq. ft.
	Wayside stand

Subject to Site Plan Review

<u>Accessory Apartment</u>	
Agricultural Service Uses	Firing Range
Bed and Breakfast - Tourist Accommodation	Forestry Use, Structure
Airport/Heliport	Group Camp
Campground Church	Kennel
Commercial Use on APA	Water Bottling Plant
Compatible Use List (other than those allowed with Zoning Permit above)	Private Sand, Gravel or Topsoil Extraction Public or Semi-Public Building
Commercial Sand and Gravel Operations	Restaurant, Full Service
Community Facility Dwelling, attached	Riding Stables
Dwelling, multiple family	Rooming House School
Dwelling, townhouse	Ski Center Timber Harvest of less than 25 acres
Dwelling, two family	Tourist Accommodation Waste Treatment, Public
	Watershed Management/Flood Control Project

Any New Land Use or Development, including single family dwellings, in any district on lands at an elevation in excess of 1,400 feet above sea level or on slopes in excess of 15% shall be subject to project review.

For all commercial uses any increase in the structural size or any addition or change in use shall be subject to project review.

See Section 4.03 for dimensional regulations - Rural Use.

J. Use Chart - Resource Management (RM)

Purpose: To provide and maintain natural vistas in areas where soil and slope conditions are least favorable for development.

Allowed Uses with Zoning Certificate

Accessory uses and structures customarily incidental and subordinate to the principal use	Game Preserve
Agricultural Uses	Mobile home
Bed and Breakfast - Accessory Use	Single family dwellings
Excavation	Forestry Use
	Hunting and/or fishing cabins under 500 sq. ft.
	Wayside Stand

Subject to Site Plan Review

Accessory Apartment
Agricultural Service Use
Bed and Breakfast - Tourist Accommodation
Campground Church
Commercial Use
Commercial Sand and Gravel Extraction
Community Facility Dwelling, Multiple Family
Firing Range
Forestry Use Structure
Forestry use structures Game Preserve
Group Camp Home Occupation
Hunting and fishing cabins*
Kennel
Major Public Utility Use
Private Sand, Gravel or Topsoil Extraction
Public or Semi-Public Building Restaurant, Full Service
Ski Center
Tourist Accommodation
Watershed Management/Flood Control Project

*and other private club structures involving 500 sq. ft. or more of floor space.

Any New Land Use or Development, including single family dwellings, in any district on lands at an elevation in excess of 1 400 feet above sea level or on slopes in excess of 15% shall be subject to project review.

For all commercial uses any increase in the structural size or any addition or change in use shall be subject to project review.

See Section 4.03 for dimensional regulations - Resource Management

...

Section 4.05 Parcels Located in More Than One Zoning District.

Where an applicant owns a parcel or contiguous parcels of land which are located in more than one zoning district, the total number of principal buildings allowable pursuant to Section 4.01 may be distributed among such districts provided:

A. No lot is created which is smaller in area than the smallest lot permitted pursuant to Section 4.03 of this Local Law in any of the districts involved.

B. The total number of principal buildings permitted for the entire parcel as determined by intensity provisions contained in Section 7.16 4.03 of this Local Law is not exceeded.

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Section 4.06 Density and Lot Calculation

A. This zoning law regulates density of development separately from lot size. Whenever a parcel of land is subdivided, the proposed subdivision shall comply with both maximum density and minimum lot size requirements of the land use district. The Planning Board shall establish and the applicant shall show on the plat the number of lots containing one principal building that may be created on the entire parcel to be subdivided.

B. The number of permissible resubdivisions, if any, shall also be marked on each lot or on a table shown on the plat. Plat notations shall indicate, in substance, that either "This lot may contain only one principal building (as defined in the Town of Chester Zoning Law) and may not be

further subdivided" or "This lot may contain a maximum of {insert number} principal buildings (as defined in the Town of Chester Zoning Law) and may be subdivided into a total of no more than {insert number} lots." Upon resubdivision of any lot, such notations shall be made for each new lot.

C. If a parcel is improved with one or more existing principal buildings, such principal buildings may be placed on lots that satisfy the minimum lot size requirements for the land use district. Such lots and the principal buildings thereon shall not be considered for purposes of the density calculation in Section 4.06-1, which shall apply only to the remaining unimproved land on the parcel.

D. For purposes of calculating minimum lot size and density under this Section, no ~~state designated wetlands~~, water bodies or land located within the right-of-way of a public highway or of a proposed street which is intended to be dedicated to the Town shall be counted.

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Section 4.07 Friends Lake Watershed Overlay District.

A. Establishment; Boundaries.

The Friends Lake Watershed Overlay District is hereby established and shall include all of the property identified on the map entitled "Friend's Lake Watershed" prepared by the Warren County Planning Department and dated October 20, 2006.

B. Prohibition of Mineral Extraction.

Any mineral extraction activity which is regulated by the New York State Mined Land Reclamation Law or Adirondack Park Agency Act and/or Regulations is prohibited within the Friends Lake Watershed Overlay District. This prohibition shall not apply to specific mineral extraction activities for which a permit has been issued by the New York State Department of Environmental Conservation and/or Adirondack Park Agency as of July 12, 2006. However, no change in use, expansion and/or relocation of any such approved mineral extraction activities within the Overlay District shall be permitted.

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Section 7.05 Junkyard Regulations.

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G. Operating Permit.

Accumulation or storage of materials defined as junk shall require an annual operating permit as a junkyard except as provided for in paragraph H of this Section. ~~Junkyards shall be required to obtain an annual operating permit from the Town.~~ All operating permits shall require annual renewal and to be applied for ~~from the Town~~ not less than 30 days prior to expiration. No operating permit shall be renewed unless the Zoning Administrator finds that the aesthetic considerations, health and safety, and fencing requirements of this Section are met. Failure to obtain an operating permit as a junkyard shall be deemed a violation of this Zoning Law and shall be subject to its provisions for enforcement.

H. Junk That Does Not Require an Operating Permit.

Accumulation or storage of material defined as junk will not require an operating permit as a junkyard under Section 7.05(G) if the following conditions are complied with:

1. Junk material is kept in a building or under cover, and out of sight; or
2. If not in a building or under cover, junk material is contained and restricted to an area of no more than 400 square feet, and
 - (a) the aforementioned area is fenced or screened artificially or naturally so that junk material is not visible from public roads or highways, waterways or neighboring properties [at five feet above ground level] and the fencing or screening is of material and construction aesthetic to the area, and
 - (b) the fenced or screened area is on a parcel of land containing an occupied dwelling, and
 - (c) the fenced or screened area is behind the rear line of the aforementioned dwelling but not less than 100' from the center of the highway.
3. No more than one Junk Automobile may remain for up to 30 days outside of a building or cover as described in condition 1 of this paragraph H or screened or

fenced area as described in condition 2 of this paragraph H.

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Section 7.13 Mining, Excavation of Minerals/Gravel.

A. Legislative Intent.

It is the intent of this Zoning Local Law to prohibit mining within Hamlet Districts and to prohibit mineral extraction within the Friends Lake Watershed Overlay District.

It is the further intent to ensure that mine sites are properly reclaimed and that the New York State Department of Environmental Conservation (DEC) permit conditions are properly enforced by granting authority to the Town of Chester Planning Board to impose site plan review conditions on new mining activities.

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Section 7.21 Accessory Apartments.

A. Purpose and Intent of this Section:

The intent of this section is to allow separate living space within an existing single family dwelling to be occupied by family members or caregivers and to ensure that this use is conducted in a manner that protects and preserves neighborhood character and property values.

B. General Requirements:

Notwithstanding the maximum intensity of development and the minimum lot size specified for the particular zoning district, an accessory apartment shall be allowed in a single family dwelling in all Town districts except the INDUSTRIAL district provided that the following conditions are found to be satisfied in Site Plan Review by the Planning Board.

1. The Town will maintain a list of all accessory use apartments in current use and not allow a number of accessory apartments greater than ten percent (10%) of the existing single family residences in the Town at any one time.

2. The landowner, or their agent, is required annually to renew the permission to continue the accessory apartment and provide documentation that all provisions of this section are in compliance. Failure to renew the use will result in the termination of the approval for the accessory apartment and require the removal of the kitchen facilities stated in Section (3).

3. When the purpose or the authorization for the accessory apartment expires or is invalidated, the kitchen facilities of the apartment, including any refrigerator, stovetop or range, dishwasher, and microwave, shall be removed within 60 days.

C. Additional Standards and Requirements:

1. The owner(s) of the property shall occupy at least one of the dwelling units on the premises as a principal residence.
2. No more than one accessory apartment is permitted on a lot.
3. Modification to an existing building to accommodate an accessory apartment shall comply with all provisions contain in this zoning law except for the density allowance provided in accordance with this section.
4. An accessory apartment shall not exceed 800 square feet in size of the floor space.
5. If the total habitable floor space of all dwelling structures on the lot exceeds 3500 square feet, no new habitable space may be constructed on the lot.
6. Off-street parking shall be available for the occupant(s) of the accessory apartment and the primary single family dwelling.
7. Sites within the wastewater district will be connected to the district wastewater system.
8. Site served by existing on-site wastewater treatment system shall meet all applicable State and Town standards for wastewater systems.
9. The building containing the accessory apartment shall meet all applicable Standards of the State Building Code and Local Law.
10. The property may be served by only one meter for each water and electric utility supplied.

11. No more than four (4) people may reside in the accessory apartment.
12. No money may be received by the property owner in exchange for occupancy of the accessory apartment.

D. Procedures for Approval of Accessory Apartments

Approval by the Planning Board of a proposed accessory apartment shall require notice to the public and a public hearing conducted under the Site Plan Review procedures and requirements described in this Local Law. The Planning Board shall mail a copy of the decision to the Adirondack Park Agency within 14 days.

Section 7.22 Boundary Line Adjustments

A. A boundary line adjustment is a subdivision but shall not require subdivision approval in the form of Site Plan review or an area variance provided that all of the following conditions are met:

1. The grantee of the boundary line adjustment parcel is the same as the landowner of the receiving parcel;
2. The boundary line adjustment parcel is adjacent to the receiving parcel;
3. The boundary line adjustment parcel is merged with and becomes a part of the receiving parcel;
4. The property conveyed is of a size and configuration that could not reasonably accommodate the construction of a single family dwelling;
5. The boundary line adjustment will not allow for any increase in the number of principal buildings on the resulting , merged parcel; and
6. The boundary line adjustment will not result in or increase any non-conformance with the provisions of Section 7.01, 7.02 or 7.03 of this Local Law.

B. The deed describing the boundary line adjustment parcel must contain a covenant stating that the conveyance is a boundary line adjustment and that the boundary line adjustment parcel is to merge with the receiving adjacent parcel and may not be sold separately, and must state that these covenants "run with, touch and concern the land".

C. The Planning Board shall have the authority to review a proposed property transfer to determine whether the transfer qualifies as a boundary line adjustment. If the Planning Board determines that the proposal is a boundary line adjustment, the approved map shall be stamped and signed by the Chairman of the Planning Board as a non-jurisdictional project. It shall be the responsibility of the applicant to file the signed map in the office of the County Clerk.

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Subdivision Regulations

ARTICLE I - DECLARATION OF POLICY

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Section 4.03 Design and Construction of Streets, Roads and Utilities

A. Rights-of-way, Surface Widths, and Basic Surfacing

All subdivision roads having 25 or more lots per mile of road or serving 25 lots or more (in each case including lots on both sides of the road) shall have as a minimum a 50-foot right-of-way, a 12-inch thick crowned compacted gravel base, a driving width of 18 feet, and 4-foot wide shoulders. Subdivision roads having less than 25 lots per mile or road or serving less than 25 lots (in each case including lots on both sides of the road) shall have as a minimum a 50-foot right-of-way, a 12-inch thick crowned compacted gravel base, a driving width of 16 feet, and 2-foot wide shoulders. Provided that, in areas for which a commercial use is planned, the above-mentioned driving widths shall be increased by such amount as may be deemed necessary by the Planning Board to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business area.

All street right-of-way lines at intersections shall be rounded by curves of at least 20 feet radius and curbs, if any, shall be adjusted accordingly.

B. Grades

Road grades shall conform in general to the terrain, but shall not exceed a 12% average grade, ~~over any 150-foot length~~ with no section exceeding, ~~nor a 15 percent average grade over any 150 foot length,~~ and in no case shall exceed more than 3 percent within 50 feet of any intersection.

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RESOLUTION 2011-4

AMENDMENTS TO THE TOWN OF QUEENSBURY LOCAL LAND USE PROGRAM

(To amend the Town of Queensbury
Subdivision Regulations)

April 15, 2011

WHEREAS, the Town of Queensbury administers a local land use program conditionally approved by the Agency pursuant to Section 807 of the Adirondack Park Agency Act, the Agency having approved said program on April 24, 1981; and

WHEREAS, the proposed amendment was submitted to the Agency for approval by Town Board Resolution 93-2011 dated February 28, 2011; and

WHEREAS, the Town of Queensbury proposed amendment will amend the existing Town of Queensbury Subdivision Regulations to address slopes used in density calculations; the Planning Board's authority regarding conservation subdivisions; and correct a citation, as set forth in the attached documents; and

WHEREAS, the proposed amendment satisfies the approval criteria set forth in Section 807(2) of the Adirondack Park Agency Act and 9 NYCRR Part 582; and

WHEREAS, the Town, as lead agency, has on March 21, 2011, issued a negative SEQR declaration on the proposed amendments set forth in Town Resolution 104-2011;

NOW, THEREFORE, BE IT RESOLVED, that the amendments are hereby approved by the Adirondack Park Agency; and

BE IT FURTHER RESOLVED, that upon filing the local law with NYS Department of State, the Town shall provide a copy of the final version of the document to the Agency's Local Government Services unit so that the Agency may update its copies of the Town's Subdivision Regulations; and

BE IT FINALLY RESOLVED, that the Agency further directs its staff to continue to provide technical assistance to the Town of Queensbury on their local land use plan and coordination on reviewing projects of regional significance.

Resolution adopted on this date, April 15, 2011.

Ayes: R. Booth, F. Mezzano, C. Stiles, W. Thomas,
F. W. Valentino, C. Wray, J. Fayle (DED),
E. Lowe (DEC), D. Scozzafava (DOS)

Nays: None

Abstentions: None

Absences: A. Lussi, L. Ulrich

Amendments to the Town of Queensbury Subdivision Regulations -
March 2011

(Excerpts in legislative format)

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§ A183-26. Density.

The maximum number of buildable lots for a conventional subdivision shall be calculated as follows:

- A. From the total area of the property to be subdivided, subtract:
- (1) Local, state, or federally regulated wetlands.
 - (2) Water bodies, including but not limited to ponds, streams, rivers, etc.
 - (3) Rock outcrops.
 - (4) Slopes in excess of 20% to include both natural and manmade slopes.
 - (5) The area to be set aside for other public use, such as parkland.
 - (6) The area to be occupied by the proposed streets or rights-of-way.
 - (7) The area occupied by other public easements or rights-of-way across the property such as major power or telephone lines.

...

§ A183-35. Authorization.

Pursuant to New York State Town Law § 278, the Planning Board is empowered to modify the minimum lot area, ~~and minimum~~ lot width and setback requirements of the Zoning Law in order to enable and encourage flexibility of design and development of land in such a manner as to create conservation subdivisions, however, in no case shall any minimum shoreline setbacks be altered by the Planning Board. The requirements, procedures and standards set forth below shall apply and be adhered to. Note also that Article 3 of Chapter 179 requires conservation subdivisions in certain zoning districts and does not allow them in other districts, and specifies the minimum land area required for clustering in each zoning district. As such, Article 3 of Chapter 179 should be referred to in order to determine if a conservation subdivision is required, allowed or prohibited. In addition, the Development Objectives for Conservation

Subdivisions set forth in § A183-56 shall be followed.

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§ A183-38. Standards.

- A. No such modification by the Planning Board shall result in a greater overall density of lots or dwelling units than is permitted in the zoning district wherein such lands lie except as follows:

(1) Density bonuses. The Planning Board may award a density bonus to increase the number of dwelling units beyond the base residential density permitted in a zoning district. The density bonuses shall not allow the total number of dwelling units to exceed a maximum of a twenty-percent increase above the calculation of maximum buildable lots as described below in Subsection ~~EE~~. Computations shall be rounded to the lowest whole number. Density bonuses are not applicable within the Adirondack Park.

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- E. Calculation of maximum buildable lots. The maximum number of buildable lots for a conservation design subdivision shall be calculated as follows:

(1) From the total area of the property to be subdivided subtract any unbuildable areas such as:

- (a) Local, state, or federally regulated wetlands, including wetlands within the Adirondack Park identified and regulated by the Adirondack Park Agency.
- (b) Water bodies, including but not limited to ponds, streams, rivers, etc.
- (c) Rock outcrops.
- (d) Slopes in excess of 20% to include both natural and manmade slopes.
- (e) The area to be occupied by the proposed streets or rights-of-way.
- (f) The area occupied by other public easements or rights-of-way across the property such as major power or telephone lines.