

Highlands Farm, Inc.

448 Styles Brook Road, Keene, NY 12942

General Partner for Highlands Farmers, LP

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May 23, 2012

Ms. Colleen Parker
Adirondack Park Agency
PO Box 99, Route 86
Ray Brook, NY 12977

Re: Highlands Farmers, LP NIPA Item 12

Dear Ms. Parker:

I certainly respect the desire expressed in your letter of May 2, 2012 to Dean R. Long to obtain a detailed plan to "identify areas which will remain undeveloped" on the larger lots in our proposed subdivision.

First, I think it is important to express our appreciation for the extensive positive input provided by the staffs at both the APA and LA Group. As a result of that input, the current proposed subdivision plan, APA Project Number 2010-269, has been modified and scaled down considerably from the original plan, APA Project Number 2006-331.

The proposed subdivision delineates only 13 lots out of a possible 31 SFDs allowed by the total acreage involved in the project. 4 lots contain pre-existing SFDs, 2 lots have no building rights, and one lot (#12) has no proposed current SFD development. Further, only 6 new single family dwellings on individual lots are sought, all of which are clustered along Styles Brook Road. These six lots will be sold with deed restrictions, including a requirement for 75 foot setbacks from roads and property lines. The remaining 7 lots, all of which will continue to be owned by members of the original Gardner family, total 1,251.6 acres out of the total 1,335.7 acres in the project – 93.7% of the total acres. The 6 new single family lots will have virtually no adverse impacts on the forest resources, aesthetics, open space resources, historic resources, wildlife, etc., of the property. That conclusion applies to the balance of the Gardner family lots for which no development is proposed. The property lines drawn on a map do not constitute development, nor do they have any impact whatsoever on forest, open space or historic resources, wildlife, etc., much less one that is "adverse."

We feel that the retention of 93.7% of the total acres by the family allows us to continue to control the bulk of Highlands Farm and that the proposed subdivision as submitted to the APA reflects our plan for the property for the foreseeable future. That perspective notwithstanding, we want to assure you that our last 50 years of stewardship should not change measurably over the next 50 years. While we have segregated the bulk of the farm into separate individual ownership, we all still treat the property as a joint family asset. Other than this subdivision of the property

into separate parcels, we have no intention at this point of further development beyond that already explained in the subdivision application. Furthermore, if any of the family owners undertake any additional development in the future, it will be necessary for them both to seek permits from the APA and to comply with the considerable litany of regulations associated therewith.

Over the last 50 years of the family's ownership of Highlands Farm, the property has been farmed and selectively logged as well as serving as a retreat for family gatherings and recreational enjoyment. Although we have no idea if we will continue to be successful locating persons to selectively log our timber, or use our extensive open fields for agricultural uses or animal husbandry, we intend to keep all of the properties under Gardner family ownership in the uses to which they have been historically used. That intention does not mean that we are willing to burden either ourselves or successive generations with restrictive easements or covenants. In fact, if we were to do so, our actions could be construed as preconditions to receipt of our permit from the APA. In such circumstances our accountant has informed us that the Internal Revenue Service (IRS) can disallow the value of any property easement donation.

Our reluctance to consider conservation easements/gifting of building rights or land is also based on information received at numerous meetings in 2007. Over several months in early 2007, we met with Michael Carr (Executive Director, Nature Conservancy's Adirondack Chapter), NYSDEC's real estate representative, Tim Smith (Counselor at law), Robi Politi (local real estate appraiser), and David Evans (accountant) to fully educate ourselves about conservation easements/gifting of building rights or land on property that would remain in Gardner family/HFLP ownership in a proposed subdivision. The reductions in real estate value and property control, along with the complications of funding and managing easements proved unacceptable at that time. Such prior experience does not, however, preclude serious consideration of future conservation easements, gifting building rights or land to NYS and/or deed covenants.

We are hopeful that the above text provides you with an adequate explanation for our ongoing management plans for the larger undeveloped areas of the proposed subdivision.

Respectfully,



Lynne G. Detmer, President

Thomas A. Gardner, Vice President
Highlands Farm Inc.
General Partner, Highlands Farmers LP



May 2, 2012

Dean R. Long
The LA Group, P.C.
40 Long Alley
Saratoga Springs, NY 12866

Re: APA Project 2010-269
for Highlands Farmers, LP
Town of Keene, Essex County
Tax Map No: Section: Block: Parcel:

Dear Mr. Long:

Thank you for providing revised plans for the above-referenced project and additional information in response to the Agency's Second Notice of Incomplete Permit Application (NIPA) dated December 7, 2011.

The only outstanding item which has not yet been fully addressed is NIPA Item 12 and the Agency's request for a Master Plan regarding the management of portions of the larger undeveloped site for continued forestry, agricultural and/or open space uses. The first Notice of Incomplete Permit Application (NIPA) dated November 9, 2010 requested:

"Please provide a Master Plan describing the anticipated future land use and development and/or further subdivision of the project site. The Master Plan should identify areas of potential future development and further subdivision and depict such future development on appropriately scaled plans. The Master Plan should also account for the remaining principal building rights on the project site including lots 5 and 12. Describe long-range plans for the entire acreage. Explain if any conservation easements or other covenants have been considered or are currently proposed for the undeveloped areas of the total acreage."

The subsequent NIPA dated December 7, 2012 requested:

"Please indicate if there are specific portions of the project site that the applicant intends to preserve from development and to keep intact as forest, agricultural or open space lands, and is the applicant willing to identify

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(and possibly restrict by deed covenant or conservation easement) those specific areas to remain forest, agricultural or open space lands. If so, please depict such areas on appropriately scaled plans. In other words, instead of identifying areas of potential future development, the Master Plan could identify areas which will remain undeveloped."

At minimum, staff expected that the site plans would be revised to depict/label specific portions of the project site that the applicant intends to manage as forest, agricultural or open space lands. The most recently revised plans, however still do not include any such depictions or labeling. Further the recent response to this issue states, "The applicant has no plans to identify areas which will remain undeveloped or open space lands as there are no plans to further subdivide or develop the project site. Therefore, no conservation easement or other covenants are currently proposed for the undeveloped areas."

As explained in the second NIPA, there is no mechanism proposed (i.e. deed covenant or conservation easement) to insure the applicant's intended long range plans for the undeveloped areas, including keeping certain lands intact for forest, agricultural or open space use. As further explain in the NIPA, such information would greatly support necessary permit findings regarding no undue adverse impacts to forest resources, aesthetics, open space resources, historic resources, wildlife, etc., as such are required pursuant to §805(4) of the Adirondack Park Agency Act.

It is likely that this project application will be presented to the Agency Board for decision. Therefore, it would be an advantage to your client's application if supplemental information is submitted which concisely summarizes how the current design of the proposal avoids adverse impacts to forest resources, aesthetics, open space resources, historic resources, wildlife, etc. and provides justification as to how long range plans to keep areas of the undeveloped property intact for such uses will be ensured. The document could then be included in the information forwarded to the Agency members prior to the Agency meeting. As you know, applicants do not have an opportunity to speak directly to the Agency members during the Agency meeting; thus this document would be a chance to present your client's best case to the Agency.

Dean R. Long
The LA Group, P.C.
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Upon receipt of your response to this letter, staff will prepare completion notices for the application and schedule the project to be presented to the Agency Board for decision.

If you have any questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Colleen C. Parker".

Colleen C. Parker
Environmental Program Specialist 3

CCP:REW:mlr

Cc: Highlands Farmers, LP, Lynne Detmer and Thomas Gardner

OPEN SPACE

A) GENERAL

Objective: Maintain the open space character of the project site, adjacent land and surrounding areas.

General Guideline: Preserve vegetative screening and existing topography and employ clustering and careful siting methods where appropriate to minimize the impact of development activities and land use alterations on open space; and preserve undeveloped areas as large as possible in view of project objectives.

Description:

Open Space includes several kinds of areas: 1) areas of any size that exist or appear to exist in a virtually natural and undeveloped state, including wooded and forested areas, natural fields, stream and river corridors, wetlands, lake shores, mountainous areas, plains, and all other types of natural terrain; 2) areas that have been developed for recreational uses on cleared land (e.g., beach, golf course, public park, playground); and 3) cleared agricultural lands, both active and inactive. Open space can be owned either in common by the community or be a part of lots owned by individuals.

Further Guidelines:

SELECTION OF OPEN SPACE

1. The appropriate overall intensity guideline(s) of the Adirondack Park Land Use and Development Plan (Section 805(3) of the Adirondack Park Agency Act) for the land use category(ies) in which the project site is located (moderate intensity, low intensity, rural use or resource management) must be applied. There are no intensity guidelines for Hamlet and industrial use areas. Rural use and resource management areas are the two categories in which maintenance and preservation of open space character, both from the standpoint of visual quality and intensity of use, are most important.
2. The area on a project site available for open space will be the land remaining after space is allocated for houses, roads, driveways, accessory uses and other structures.

3. The following areas should be included in those portions of a project site that are left in a natural and undeveloped state:
 - a. areas containing serious physical limitations to development; e.g., slopes greater than 25%, excessively permeable soils, shallow soils, poorly drained soils, extensive bedrock outcroppings, high ground water
 - b. buffer zones around lakes, ponds, rivers, streams and drainage courses
 - c. wetlands and buffer zones around wetlands
 - d. elevations above 2500 feet
 - e. buffer zones along public and private roads
 - f. areas containing key or critical wildlife habitats; e.g., wetlands, deer wintering yards, beaver ponds, fish spawning areas, waterfowl production areas
 - g. areas containing key or critical vegetative communities; e.g., a virgin stand of trees, bogs, alpine meadows
 - h. sites of scenic and/or geologic interest; e.g., gorges, waterfalls, geologic formations
 - i. floodplains of all lakes, ponds, rivers and streams
 - j. landscapes having special scenic qualities, including scenic vistas as delineated on the Adirondack Park State Land Master Plan map
 - k. Viable agricultural soils
 - l. aquifer recharge areas
4. Any cleared areas that have been previously developed as recreational areas such as a golf course, public park or playground should continue to be so used. The open quality of cleared agricultural lands should be maintained.
5. In some situations it may be desirable to create open filled areas where none exist. These should contain as few man-made structures and facilities as possible.

EMPLOY SCREENING TO MAINTAIN OPEN SPACE CHARACTER

6. Existing topographic features (e.g., ridges, depressions, hills) and existing vegetation (e.g., stands of trees, clumps of bushes) should be retained and utilized to the greatest degree possible to screen (conceal, camouflage or otherwise lessen the visibility of) any developed areas on the project site (e.g., buildings, roads, utility corridors, parking lots) from:
 - a. undeveloped areas on the project sites
 - b. other developed areas on the project site (e.g., other residential structures)
 - c. roads and trails
 - d. adjoining properties
 - e. water bodies on or adjacent to the project site
 - f. scenic vistas

7. Buildings, roads, utility facilities, parking lots and other development should be of a scale that will allow them to be screened by existing topography and/or vegetation. Where existing vegetation is not present on certain portions of the project site, native plant species should be planted (e.g., staggered rows of trees, clumps of bushes) to conceal, camouflage, or otherwise lessen the visibility of any developed area on the project site from the six areas listed above.
8. Buildings and other structures (e.g., fences, utility poles) should be constructed of natural materials (e.g., stone and wood) and/or should be of a color or texture that blends into the surrounding area and helps make such structures less visible from points on and off the project site.
9. Proposed roads and utility corridors should follow existing topographic contours and avoid perpendicular crossings of contour lines.
10. Buildings should be located below the crest of hills or ridge lines.

CLUSTERING AND COMMON FACILITIES TO MAINTAIN OPEN SPACE

11. Cluster buildings and other non-recreational use structures to leave as much open space as possible.
12. Common facilities (e.g., beach and boating facilities, tennis courts, picnic areas, and others) should be provided where feasible.

LEGAL TECHNIQUES TO MAINTAIN OPEN SPACE

13. The project sponsor should provide deed restrictions, restrictive covenants, a homeowner's association,¹ easements or other similar appropriate means to insure that:
 - a. open space areas remain as open space areas
 - b. open space areas are maintained (e.g., cleanup, trail maintenance, playground maintenance) in a manner that will protect their open space qualities
 - c. existing and planted vegetation is preserved and maintained in order to enhance the open space character of the project site, including access roads
 - d. some person(s) (e.g., sponsor, property owner, homeowners' association) is responsible for the payment of taxes on open space areas.

¹For further information, consult "Homeowners Associations: the Offering of Cooperative Interests in Realty in New York State. Preliminary Working Draft." Adirondack Park Agency,

