

Highlands Farm, Inc.

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General Partner for Highlands Farmers, LP

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August 7, 2012

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

Re: Highlands Farmers, LP, APA Project Permit 2010-269, draft dated July 30, 2012

Dear Colleen and Commissioners:

We have reviewed and appreciate the changes that the APA staff has included in the Highlands Farmers, LP, APA Project Permit 2010-269, draft permit dated July 30, 2012; however, we still feel that it is unnecessary to require a Master Plan/Open Space Plan as a pre-condition to any future subdivision or other new land use and development on the acreage retained by HFLP/Gardner family members in lots 10 and 12. Our proposed version of the draft permit, carrying a date of August 6, 2012, is attached.

Most of the changes in our proposed draft permit are based on our review of, and language contained in, copies of permits received from Colleen Parker and Brian Ford in accordance with our FOIL request for examples of APA approved permits as reference for Master Plan/Open Space Plan conditions.

Please note that we have reviewed all permits provided and the following "comparable" permits do NOT have a Master Plan/Open Space Plan condition tied to a future conveyance, subdivision or other new land use and development on the acres retained by the applicant:

- APA Project Permit 2004-100
 - Adam Hochschild, George Labalme, Jr., Patricia Labalme, Etienne Boillot, Paul Boillot, Dominique Boillot, Nicholas Boillot and the Poole Family Partnership
 - Issued June 29, 2012

- APA Project Permit 2010-272
 - Moeller Family Trust
 - Issued December 15, 2011

- APA Project Permit 2007-289
 - Joseph J. Barile and Patricia B. Barile
 - Issued April 22, 2008

The following permits involve subdivisions with ownership and development plans enormously more complex than Highlands Farmers, LP; therefore, in our opinion, it is a stretch to classify them as comparables:

- APA Project Permit 2005-172
 - Adirondack League Club
 - Issued June 13, 2006
- APA Project Permits 2001-217 and 2003-104
 - Diamond Sportsmen's Club, Inc.
 - Issued June 19, 2002 and September 18, 2003
- APA Project Permit 2010-290 & 2007-117A
 - Brandreth Park Association
 - Issued August 22, 2011
- APA Project Permit 2005-100
 - Preserve Associates, LLC
 - Issued January 31, 2012
- APA Project Permit 2010-70
 - Marion River Carry Railroad Co., Inc.
 - Issued March 21, 2011

In fact, the conditions for Open Space contained in the July 30, 2012, proposed draft permit appear more onerous than any of the conditions in the above "comparable" APA permits. Again, this degree of protection in perpetuity seems to us to be unnecessary and beyond the scope of the underlying regulations.

Please reference our prior letter to Colleen Parker dated May 23, 2012, for additional explanation that Highlands Farmers, LP's proposed plan already has deed covenants on Lots 1, 2, 3, 4, 7, 8, 11 and 13 that protect open space resources. As stated therein, we have no intention of further development on any other lot remaining in HFLP/Gardner family ownership in the foreseeable future. If any HFLP/Gardner family member undertakes 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.

When all is said and done, our subdivision plan as submitted does protect the open space resource and complies with the APA regulations. That determination was clearly communicated to us during our meeting with Colleen Parker, Rick Weber and Paul Van Cott on July 12, 2012. That conclusion notwithstanding, the aforementioned members of the APA staff were fearful that existing APA regulations would not be sufficient to protect the open space in the future. In our opinion, rather than imposing conditions on our permit that extend beyond the scope of the APA

Page 3
August 7, 2012

regulations, it would be more appropriate for the staff and commissioners to request changes in the regulations themselves.

In conclusion, the following condition contained in paragraph 16 of the Highlands Farmers, LP, APA Project Permit 2010-269, draft permit (both your and our versions), should provide sufficient comfort that the APA retains appropriate control of the resource in the future:

“Beyond that authorized herein, there shall be not further subdivision or other new land use and development on the project site, without a new or amended Agency permit”

We are hopeful that, upon careful review of this matter, the APA commissioners will agree with our position.

Respectfully,



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

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Legal Interests of Others

- 15. This permit does not convey to the permittee any right to trespass upon the lands or interfere with the 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

- 16. Beyond that authorized herein, there shall be no further subdivision or other new land use and development on the project site, without a new or amended Agency permit.

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Land Resources

- 17. Portions of the project site contain slopes ranging from 15 to greater than 25 percent. New land use or development on any slopes greater than 15 percent should receive prior Agency review and approval to minimize the potential for slope failure, erosion, sedimentation, water quality impacts, open space and aesthetic impacts.

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Open Space Plan§

17. Any new permit application (excluding non-material "minor" permit amendments as determined by the deputy director-regulatory programs) for further subdivision or development on Lots 10 or 12 shall include an open space plan for such lot that proposes portions of lands on such lot to be permanently protected as open space and appropriate mechanisms for ensuring such protection. Upon approval of such open space plan by the Agency, and prior to any such further subdivision or development, the owner of Lot 10 or 12 shall implement the approved open space plan and obtain a letter of permit compliance from the Agency. §

Deed Covenants

- 18. The deeds to the proposed lots shall include the restrictive deed covenants as proposed by the applicant, referenced herein and included in the application materials. Any modifications to the deeds shall be submitted to the Agency for review and may require the issuance of a new or amended Agency permit.

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FINDINGS OF FACT

Background/Prior History

- 1. The project site, except for tax parcel 44.2-1-33.100, was acquired by Robert Gardner prior to the May 22, 1973 enactment date of the Adirondack Park Land use and Development Plan. Lot 33.1 was acquired by Robert Gardner in 1983 (Deed Book 101, Page 37). Gardner's original ownership included the project site, located south of Styles Brook Road and approximately 565± acres located north of the road. By deeds dated March 31, 2000, Robert Gardner's ownership, north and south of Styles Brook Road was conveyed from his Estate to Evelyn A. Gardner (deed

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As such, the project does not present concerns for wildlife habitat or connectivity. Requiring that there shall be no further subdivision or other new land use and development on the project site without a new or amended Agency permit will further ensure that wildlife habitat is protected.

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Open Space/ Aesthetics

- 11. The Six vacant lots (Lots 1, 2, 3, 4, 7, and 8) proposed to be conveyed as residential building lots include a combined total acreage of 84.1± acres (6.3% of the total project site) and no new land use or development is currently proposed on the remainder of the project site. Deed covenants which restrict Lots 1, 2, 3, 4, 7, and 8 to only one single family dwelling and no additional principal buildings will help to protect the rural character of the Resource Management area and open space resources.

Open Space resources on proposed Lots 9, 11 and 13 will be permanently protected by deed covenants which prohibit the construction of any new principal buildings on those lots. Lots 11 and 13 are 156.3± acres and 204.6± acres respectively (27% of the total 1335.7± acre project site) and include steep slopes, ridge lines and close proximity to the State Land wilderness area. As such permanently restricting these lots from further development by deed covenant provides adequate protection of open space resources on those parcels and protection of the statutory "critical environmental area."

- 12. Lot 5, which will continue to be owned by HFLP, includes approximately 32.6 acres. Six additional principal buildings could potentially be proposed for construction on Lot 5, however, no new land use or development is proposed on Lot 5 at this time. Lots 10 and 12, which will continue to be owned by HFLP and the Gardner family, respectively include a combined total of 855± acres (64% of the total 1335.7± acre project site). No new land use or development is currently proposed on these lots; however, the principal building allocation proposed by the applicant would potentially allow for up to 15 additional principal buildings on the 855± acres (as described in the "Project Description" above). The density retained on Lot 5 will not be transferred to Lot 10 or 12.

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During review of the project, Agency staff requested that the applicant provide an open space plan identifying specific portions of the project site to be permanently preserved from development and kept intact as open space lands. By letter dated May 23, 2012, the applicant declined to provide such a plan, indicating that "retention of 93.7% of the total acres by the family allows us to continue to control the bulk of Highlands

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Farm". There are no plans to develop those lots in the "foreseeable future" and they intend to "still treat the property as a joint family asset". To the extent that the applicant should ultimately determine to further develop the remaining principal building rights on the project site, the applicant must comply with Conditions paragraphs 9, 16 and 17 hereof.

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Permanent protection of portions of the 855± acres of Resource Management lands retained by the project sponsor is critical to

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Agency staff has informed the applicant that staff's review of the project as submitted has resulted in a finding of exemplary compatibility of the proposed project pursuant to Executive Law Section 809(10)(b) with the purposes, policies and objectives for such lands set forth in Executive Law Section 803(g)(2), in particular "to protect the delicate physical and biological resources" and "to preserve the open spaces that are essential and basic to the unique character of the park." Accordingly, there will be no requirement for an open space plan prior to any further subdivision of, or development on Lots 10 and 12, respectively.

Visual / Aesthetics

- 13. Limiting the removal of vegetation, limiting the maximum footprint size and height of structures on the project site, requiring utilities to be installed underground, as well as requiring outdoor lighting to be shielded and angled downward and exterior finish materials to be natural colors will all help to minimize potential visual impacts, and protect the rural and scenic character of the area.

Critical Environmental Area(s)

- 14. No new land use or development is proposed in or near the statutory "critical environmental area," within 1/8 mile of the Hurricane Mountain Primitive Area.

Projected Remaining Building Density

- 15. After the construction of the six single family dwellings authorized herein twenty-one additional principal buildings could potentially be proposed for construction on the project site consistent with the overall intensity guidelines. HFLP proposes to allocate the potential for those principal buildings to individual lots as described in the project description herein. Due to site limitations, the Agency makes no assurances the maximum development mathematically allowed by the overall intensity guidelines is approvable under the APA Act. Also a professionally prepared survey of the exact property boundaries and total acreage could affect the remaining potential building density if the surveyed acreage differs from the 1335.7± acres depicted on the project plans referenced herein and attached hereto.

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