

 <p>NEW YORK STATE <b>Adirondack</b> parkagency</p> <p>P.O. Box 99 • Ray Brook, New York 12977 (518) 891-4050 www.apa.ny.gov</p>	<p><b>APA Project Permit 2010-269</b></p>
<p>In the Matter of the Application of</p> <p><b>HIGHLANDS FARMERS, LP</b></p> <p>for a permit pursuant to §809 of the Adirondack Park Agency Act and 9 NYCRR Part 578</p>	<p>Date Issued: August 17, 2012</p>
	<p>To the County Clerk: This permit must be recorded on or before <b>October 17, 2012</b>. Please index this permit in the grantor index under the following names: <b>1. Highlands Farmers, LP</b></p>

**SUMMARY AND AUTHORIZATION**

Highlands Farmers, LP (HFLP) is granted a permit, on conditions, authorizing a residential subdivision in an area classified Resource Management by the Official Adirondack Park Land Use and Development Plan Map in the Town of Keene, 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 October 17, 2012 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 the deed conveying one of the subdivision lots authorized herein is recorded in the Essex County Clerk's Office.

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 consists of a subdivision in a Resource Management land use area, a Class A regional project requiring an Agency permit pursuant to Section 810(1)(e)(3) of the Adirondack Park Agency Act and a regulated activity requiring a wetlands permit pursuant to 9 NYCRR Sections 578.2 and 578.3(n)(3).

### **PROJECT SITE**

The project site is 1335.7± acres, located on the south side of the Styles Brook Road (AKA Glen Road and County Route 52) in the Town of Keene, Essex County, in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map. A small portion of the project site (proposed Lot 9 herein) is located on the east side of Morrison Road. The 1335.7± acres are identified on Town of Keene Tax Maps as: Section 36 Block 2 Parcels 9.1, 10.1, 11.1, 12.1, and 14; Section 44.2 Block 1 Parcel 33.100; and Section 45 Block 2 Parcels 1, 2, 3, 4, 5, 12, 13, 15, 16, and 23. Most of the project site is described in a deed from Evelyn A. Gardner to Highlands Farmers, LP dated March 31, 2000 which was recorded July 6, 2000 in the Essex County Clerk's Office in Liber 1253 of Deeds at Page 98. Tax lots 45-2-12 and 23 are described in a deed from Clifford J. LeClair to Highlands Farmers, LP dated February 14, 2001 which was recorded May 22, 2001 in the Essex County Clerk's Office in Liber 1283 of Deeds at Page 227.

### **PROJECT DESCRIPTION AS PROPOSED**

The project as proposed is summarized as follows: a 13-lot subdivision creating lots ranging in size from 2.7± acres to 536± acres. Six vacant lots (lots 1, 2, 3, 4, 7, and 8), averaging 14± acres in size, are proposed to be conveyed as residential building lots, with the construction of one single family dwelling proposed on each. As shown on the project plans referenced herein, these six building lots will all be accessed from Styles Brook Road. No new land use or development is proposed on the seven lots which comprise the remainder of the property. As further described below, these seven lots are proposed to be conveyed to members of the Gardner family or retained by Highland Farmers, LP (HFLP).

The proposed lots are further described as follows.

Lot 1, a 14.8±-acre vacant lot, on which one new single family dwelling with on-site wastewater treatment system and well is proposed. Pursuant to a deed restriction, no additional principal buildings will be allowed on Lot 1. The single family dwelling proposed on Lot 1 will have a maximum of 5 bedrooms, a maximum footprint of 5,000 square feet and will not exceed 40 feet in height.

Lot 2, a 9.8±-acre vacant lot, on which one new single family dwelling with on-site wastewater treatment system and well is proposed. Pursuant to a deed restriction, no additional principal buildings will be allowed on Lot 2. The single family dwelling proposed on Lot 2 will have a maximum of 5 bedrooms, a maximum footprint of 3,500 square feet and will not exceed 40 feet in height.

Lot 3, a 14.7±-acre vacant lot, on which one new single family dwelling with on-site wastewater treatment system and well is proposed. Pursuant to a deed restriction, no additional principal buildings will be allowed on Lot 3. The single family dwelling proposed on Lot 3 will have a maximum of 6 bedrooms, a maximum footprint of 6,000 square feet and will not exceed 40 feet in height.

Lot 4, a 12.8±-acre vacant lot, on which one new single family dwelling with on-site wastewater treatment system and well is proposed. Pursuant to a deed restriction, no additional principal buildings will be allowed on Lot 4. The single family dwelling proposed on Lot 4 will have a maximum of 6 bedrooms, a maximum footprint of 6,000 square feet and will not exceed 40 feet in height.

Lot 5, a 32.6±-acre lot, improved by a preexisting single family dwelling and preexisting accessory use and agricultural use structures. 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. Lot 5 will be retained by HFLP.

Lot 6, a 66.8±-acre lot, improved by a preexisting single family dwelling (Lodge). Two additional principal buildings could potentially be proposed for construction on Lot 6, however, no new land use or development is proposed on Lot 6 at this time. Lot 6 will conveyed to Lynne G Detmer, (Gardner family member and principal in Highlands Farmers, LP).

Lot 7, a 20.8±-acre vacant lot, on which one new single family dwelling with on-site wastewater treatment system and well is proposed. Pursuant to a deed restriction, no additional principal buildings will be allowed on Lot 7. The single family dwelling proposed on Lot 7 will have a maximum of 5 bedrooms, a maximum footprint of 3,500 square feet and will not exceed 40 feet in height.

Lot 8, an 11.2±-acre vacant lot, on which one new single family dwelling with on-site wastewater treatment system and well is proposed. Pursuant to a deed restriction, no additional principal buildings will be allowed on Lot 8. The single family dwelling proposed on Lot 8 will have a maximum of 5 bedrooms, a maximum footprint of 5,000 square feet and will not exceed 40 feet in height.

Lot 9, a 2.7±-acre vacant "non-building" lot. Pursuant to a deed restriction, no principal buildings will be allowed on Lot 9; Lot 9 will be retained by HFLP or conveyed as a non-building lot.

Lot 10, a 536.1±-acre lot, improved by a preexisting single family dwelling (Thomas Gardner residence) and accessory structures. Five additional principal buildings could potentially be proposed for construction on Lot 10, however no new land use or development is proposed on Lot 10 at this time. Lot 10 will be conveyed to Thomas Gardner, (Gardner family member and principal in Highlands Farmers, LP).

Lot 11, a 156.3±-acre lot, improved by a single family dwelling (Jones's residence) as authorized by Agency permit 2005-9. Lot 11 will be conveyed to Cathleen Jones, current owner of the existing dwelling on the lot. Agency Permit 2005-9 described a 176±-acre lot, instead of the currently proposed 156.3±-acre lot. Thus the project authorized herein amends Permit 2005-9. No new land use or development is proposed on Lot 11 and pursuant to a deed restriction no additional principal buildings will be allowed on Lot 11.

Lot 12, a 252.5±-acre lot, (which contains accessory structures but no single family dwelling or principal building). Eight principal buildings could potentially be proposed for construction on Lot 12, however no new land use or development is proposed on Lot 12 at this time. Lot 12 will be retained by HFLP.

Lot 13, a 204.6±-acre vacant "non-building" lot. Pursuant to a deed restriction, no principal buildings will be allowed on Lot 13, and no new land use or development is proposed on Lot 13. Lot 13 will be conveyed to Thomas Gardner along with adjoining Lot 10.

The project is shown on 9 sheets of drawings entitled "Highlands Farm 13 Lot Subdivision", prepared by the LA Group and last revised 3/30/12. A reduced scale copy of Sheet L-1.0, entitled, "Master Plan" is attached as a part of this permit for easy reference. The original, full-scale maps and plans referenced in this permit are the official plans for the project.

The applicant has also provided proposed deeds for each of the lots to be conveyed. The deeds to proposed lots 1, 2, 3, 4, 7, and 8 restrict each of those lots to only one (1) principal building, which shall be a single family dwelling, and the deeds include restrictive covenants regarding maximum structure size, exterior design and color, setbacks, lighting, tree cutting, plantings, etc. The deed to Lot 6 restricts that lot to no more than 2 additional principal buildings and identifies the Grantee as, Lynne G. Detmer. The deeds to lots 9 and 13 include restrictions that no principal building rights are allocated to those lots and no single family dwelling or other principal building shall be constructed on those lots. The deed to Lot 13 identifies the Grantee as Thomas A. Gardner, who is also the Grantee of adjoining Lot 10, which is improved by his single family dwelling. The deed to Lot 10 restricts that lot to no more than 5 additional principal buildings. The deed to Lot 11 restricts that lot to no additional principal buildings beyond the one single family dwelling which currently exists. Lots 5 and 12 will be retained by HFLP.

#### 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.

All conditions set forth in Agency Permit 2005-9 still apply unless specifically amended herein. In the case of conflict the more restrictive condition supersedes.

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 2010-269 issued August 17, 2012, 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 one single family dwelling on vacant lots 1, 2, 3, 4, 7, and 8, in the locations shown on the project plans. The authorized single family dwellings shall not exceed the proposed number of bedrooms or footprint sizes listed above for each lot, including all covered and uncovered attached porches, decks, exterior stairs and accessory structures (such as an attached garage). No structures shall exceed 40 feet in height, as measured from the highest point on the structure, including the chimney, to the lowest point of existing grade or finished grade, whichever is lower.

#### **Accessory Uses and Structures**

5. Accessory structures [except guest cottages] are permitted without a permit amendment, provided they are located within the building envelope shown on the project plans or within 100 feet of the feet of the primary development to which they will be accessory, and provided the accessory structure does not exceed 800 square feet in footprint or 30 feet in height. Larger accessory structures or those located outside the building envelope or further from the primary development shall not be constructed without a new or amended Agency permit.

No new structures shall be built within the viewshed of the preexisting historic buildings on Lot 5 without a determination from New York State Office of Parks, Recreation and Historic Preservation (OPRHP) stating that the new structure 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 Section 14.09 of the New York State Historic Preservation Act of 1980.

**Building Color**

6. All exterior building materials, including roof, siding and trim, used to surface the exterior of the new dwellings and accessory structures authorized herein shall be of a color which blends with the existing vegetation. The Agency will, upon request, advise whether any particular proposal complies with this condition.

**Outdoor Lighting**

7. Any new free-standing or 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 public roads or adjoining property. The intent is to reduce nighttime light pollution (glare, light trespass and sky glow).

**Utilities**

8. As proposed, all new utility line installation shall be buried underground and shall follow proposed driveway locations.

**Wetlands**

9. Beyond the subdivision authorized herein, 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**

10. The proposed new on-site wastewater treatment systems on lots 1, 2, 3, 4, 7, and 8 shall be constructed in complete conformity with the locations and designs shown on the project plans referenced herein. The construction of the system shall be under the supervision of a licensed design professional (licensed Professional Engineer, Registered Architect, or exempt Licensed Surveyor). Within 30 days of complete system installation and prior to its utilization, the design professional shall provide the Agency with written certification that the system was built in compliance with the approved plans.

11. The permittee(s) or successor(s) shall provide each purchaser of a lot at the time of purchase with a legible reproduction of the approved wastewater treatment system plans and shall notify the purchaser of the necessity of installing such facilities in accordance with the approved plans.

**Stormwater Management / Erosion Control**

12. Stormwater management practices and erosion controls shall be undertaken as depicted on the project plans and in accordance with the Stormwater Pollution Prevention Plan for "Highlands Farm 13 Lot Subdivision" prepared by the LA Group and last revised July 2011. Plantings and seeding measures included in the Erosion and Sediment Control Plan shall incorporate only native or proven non-invasive species.

**Vegetative Cutting / Planting**

13. On lots 1, 2, 3, 4, 7, and 8, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed within 75 feet of the centerline of Styles Brook Road, or Morrison Road (Lot 8) except for an area not to exceed 25 feet in width for driveway construction and utility installations. 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.

The proposed plantings on lots 1, 2, and 3 shall be undertaken as shown on project plans (Sheet L-3.0). The plantings shall be implemented on individual lots in the spring or fall, whichever comes first, immediately following the construction of the foundation of the single family dwelling authorized on the lot. Any trees which do not survive or become diseased shall be replaced annually until such time as all of the trees have been established in a healthy growing condition.

**Shoreline Cutting**

14. With regard to the shoreline of Styles Brook, 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, and

- 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.

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**

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.

#### **Open Space Plan**

17. Any new permit application for further subdivision or development on Lots 10 or 12 shall include an open space plan and implementation measures for the permanent protection of open space resources as appropriate.

#### **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.

#### **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 recorded July 3, 2000 in Liber 1252 of Deeds at Page 211), and then from Evelyn A. Gardner to Highlands Farmers, LP (deed recorded July 6, 2000 in Liber 1253 of Deeds at page 98). On February 14, 2001, the portion of the project site described as Tax lots 45-2-12 and 23 was conveyed from Robert Gardner's Estate to Clifford LeCalir and then on same day conveyed from Clifford J. LeClair back to Highlands Farmers, LP by deed recorded May 22, 2001 (Liber 1283 of Deeds at Page 227) as described above.

Agency Project application 2006-331 involved a previous proposal by HFLP to subdivide their property (including lands on both sides of Styles Brook Road) into 19 lots, creating 16 new residential building lots. A Notice of Incomplete Permit Application (NIPA) was issued for that project which included requests for information regarding alternative designs and protection of open space resources, forestry resources and agricultural uses. The application was subsequently withdrawn by HFLP. Later, Highlands Farmers, LP conveyed the 565± acres located north of Styles Brook Road in its entirety, although it remains in family ownership.

In the fall of 2010 HFLP submitted initial application materials for this subdivision project south of Styles Brook Road. From 2010 until the application was determined complete in May 2012, the project and plans have been further refined in response to comments/questions from Agency staff and the Town of Keene.

#### **Existing Environmental Setting**

2. The project site is located in a Resource Management land use area on the Adirondack Park Land Use and Development Plan Map.
3. That portion of the project site located within 1/8 mile of state lands classified primitive, the Hurricane Mountain Primitive Area is a statutory "critical environmental area." That portion of the project site at elevations of 2500 feet or more (Southerly part of Lot 13) is also a statutory "critical environmental area."
4. There are jurisdictional wetlands on the project site associated with both O'Connell and Styles Brooks. The wetlands are shrub swamp/conifer swamp complexes with value ratings of "3".

Wetlands shown on the plans and/or described herein are intended to alert landowners and others that wetlands are present on the project site. However, this may not identify all wetlands on or adjacent to the project site.

5. The project site currently improved by four single family dwellings and accessory use structures as listed in the "Project Description" above. The preexisting stone farmhouse and barn on proposed Lot 5 is visible from Styles Brook Road and is the focal point of the property. New York State Office of Parks, Recreation and Historic Preservation has determined the stone structures to represent an "Adirondack farmstead incorporating the recreational and scenic opportunities offered by rugged setting" (see finding 19 herein). The other three dwellings and accessory structures on the project site are partially visible from the road but not as evident as the historic stone structures on Lot 5, due to their location, vegetative screening, size and design.
6. Portions of the project site (primarily to the south) contain rolling hills and steep slopes ranging from 15 to greater than 25 percent. These lands to the south are primarily forested with a mixture of coniferous and deciduous trees. The northerly portion of the property adjacent to Styles Brook Road is a scenic viewshed of large open field back-dropped by the rolling hills to the South and State land wilderness areas in the distance. Styles Brook which crosses the project site and borders each of the proposed new building lots is within the Ausable/Bouquet watershed and is classified by New York State Department of Environmental Conservation as special Brook Trout water (AA(t)).
7. Land uses in the area of the project site are primarily rural residential, both seasonal and year-round, open space, forest and agricultural uses.

#### **Public Notice and Comment**

8. The Agency notified all adjoining landowners and those parties as statutorily required by Section 809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. One comment letter was received which requested additional information.

#### **Other Regulatory Permits and Approvals**

9. The Town of Keene Planning Board approved the project on December 7, 2010. By letter dated March 26, 2012, the Essex County Department of Public Works (DPW) determined that the adjusted

driveway locations for Lots 1 and 2 and driveways for Lots 3 and 4 have adequate sight distance on County Route 52 (Styles Brook Road) and are acceptable to the DPW.

A State Pollution Discharge Elimination Permit for Stormwater Discharges from Construction Activities may be required from the New York State Department of Environmental Conservation. A draft Notice of Intent was included within the Stormwater Pollution Prevention Plan referenced herein.

### **PROJECT IMPACTS**

#### **Wetlands**

10. No new land use or development is proposed in or near jurisdictional wetlands and thus this project will not impact jurisdictional wetlands or involve loss of wetland acreage, function or the benefits derived therefrom.

#### **Water Resources**

11. Construction of the individual wastewater treatment systems in accordance with the plans approved herein and certification from a New York State licensed Professional Engineer that the system is constructed as approved, will protect surface and ground water resources. Implementing the Stormwater Pollution Prevention Plan as referenced herein and compliance with shoreline cutting conditions will further protect water resources.

#### **Wildlife Resources**

12. Pursuant to an ecological impact analysis conducted by staff, the potential ecological impact zones associated with the 6 proposed single family dwellings authorized herein will in part overlap the current zones of impact related to the existing town road and other development. 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 Lots 10 or 12 without a new or amended Agency permit, including an open space plan, will further ensure that wildlife habitat is protected.

#### **Open Space**

13. 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."

14. 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. As noted above, two additional principal buildings could potentially be proposed for construction on Lot 6, owned by a family member. Lots 10 and 12, which will continue to be owned by HFLP and the Gardner family, respectively include a combined total 788.6± acres (59% 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 13 additional principal buildings on the 788.6± acres (as described in the "Project Description" above). Thus, pursuant to Executive Law Section 809(10)(c), the owners of Lots 5, 6, 10 and 12 could potentially reallocate density and among the lots and seek to construct up to twenty-one additional principal buildings on Lots 10 and/or 12.

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. The applicant declined to provide such a plan, indicating that 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".

Permanent protection of portions of the Resource Management lands retained by the project sponsor is critical to a finding of 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, Condition 17, which requires implementation of an open space plan as part of any new application for development Lots 10 or 12 is appropriate.

#### **Visual / Aesthetics**

15. 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**

16. 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**

17. 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.

#### **Economic/Fiscal Factors**

18. The average second home owner in Essex County spends an estimated \$4,972 dollars within the County each year. If all six homes were to be constructed and occupied as second homes, total spending in the local economy would equate to an estimated \$30,000. The average consumer unit in the United States spends \$44,575 per year on items that could feasibly be purchased in their local economy including food items, housing costs, apparel, transportation, entertainment, and insurance. If all six units

were constructed and occupied as full-time homes, potential spending in the local economy from their occupancy could be estimated at \$267,000. The range of spending potential in the local economy from the full build-out of the six housing permits authorized in this permit is between \$30,000 and \$267,000 per year.

### **Historic Sites or Structures**

19. By a letter dated January 5, 2011, The New York State Office of Parks Recreation and historic Preservation (OPRHP) determined that, "The property and existing buildings met criteria for inclusion in the State Register of Historic Places as an intact and representative example of an Adirondack farmstead incorporating the recreational and scenic opportunities offered by rugged setting," but further determined the project as proposed and authorized herein will have no adverse impact on historic resources. 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 Section 14.09 of the New York State Historic Preservation Act of 1980. Any future application submitted for additional subdivision or land use and development on the project site should be designed in a manner compatible with the character of the historic resources and would require further consultation with OPRHP.

### **CONCLUSIONS OF LAW**

The Agency has considered all statutory and regulatory criteria for project approval as set forth in: §809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574; §24-0801(2) of the NYS Freshwater Wetlands Act (ECL, Article 24, Title 8) and 9 NYCRR Section 578.10. The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

PERMIT issued this            day  
of                            , 2012

ADIRONDACK PARK AGENCY

BY: \_\_\_\_\_  
Richard E. Weber, III Deputy Director  
(Regulatory Programs)

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

On the            day of            in the year 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard E. Weber III 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

REW:CCP:PTV:WMR:mlr