

 <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p>	<p><b>APA Project Permit</b> <b>2005-100 Lake Simond View</b></p>
<p>In the Matter of the Application of <b>PRESERVE ASSOCIATES, LLC</b></p> <p>for a permit pursuant to §809 of the Adirondack Park Agency Act and 9 NYCRR Parts 577 and 578</p>	<p>Date Issued: <b>DATE</b></p> <p>To the County Clerk: This permit must be recorded on or before <b>DATE</b>. Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. Preserve Associates, LLC</b></li><li><b>2. Big Tupper, LLC</b></li><li><b>3. Tupper Lake Marina, LLC</b></li><li><b>4. Oval Wood Dish Liquidating Trust</b></li></ol>

**SUMMARY AND AUTHORIZATION**

Pursuant to Adirondack Park Agency Findings and Order 2005-100 ("Agency Order 2005-100"), Preserve Associates, LLC (the "Project Sponsor") is granted a Permit, on conditions, authorizing the subdivision and development of the Lake Simond View neighborhood, as described in Agency Order 2005-100.

This project may not be undertaken until this Permit and its attachments are recorded in the Franklin County Clerk's Office. This Permit shall expire unless so recorded on or before DATE 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 may not be undertaken or continued unless the project authorized herein is in existence within 10 years from the date of issuance of Agency Order 2005-100. The Agency will consider this project in existence when the first lot authorized herein has been conveyed.

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 Adirondack Club and Resort project is a Class A regional project requiring an Adirondack Park Agency permit pursuant to § 810(1)(b)(1)(b), (3), (5), (7), (14), & (15) of the Adirondack Park Agency Act because it involves wetlands, subdivisions creating more than 75 lots and sites, commercial uses, tourist accommodations, major public utility uses, structures over 40 feet in height, and construction of a ski center in Moderate Intensity Use. The project is a Class A regional project requiring an Agency permit pursuant to § 810(1)(e)(1)(a), (b) and (c), (3), (6), and (16) of the Adirondack Park Agency Act because it involves wetlands, subdivisions, major public utility uses, land use and development above 2,500 feet, and a ski center in Resource Management. The project is a regulated activity requiring a wetlands permit pursuant to 9 NYCRR §§ 578.2 and 578.3(n)(1)(i) and (2)(i) and (ii) because of proposed activities within and impacting wetlands. The project is a rivers project requiring an Agency permit pursuant to 9 NYCRR § 577.4(a) and § 577.5(c)(1) because a portion of the property is located in the designated Raquette River Recreational River area within the New York State Wild, Scenic and Recreational River System.

### **PROJECT SITE**

1. The project site for this Permit ??? is a portion of the Adirondack Club and Resort project site described in Agency Order 2005-100. The Project site is comprised of the Lake Simond View neighborhood as described in Adirondack Park Agency Findings and Order 2005-100. The project site is located on lands classified Resource Management and Moderate Intensity Use on the Adirondack Park Land Use and Development Plan Map. As described in Agency Order 2005-

100, the Project Sponsor proposes to develop the project site as part of Phase I within the overall Adirondack Club and Resort Development.

The project site does not include any Open Space Type 2 or 3 lands, as depicted on the Open Space plan referenced in the chart attached hereto as Attachment B.

#### **PROJECT DESCRIPTION AS PROPOSED**

2. The complete Adirondack Club and Resort project description is provided in Agency Order 2005-100. The complete project is shown on the latest revised Master Plan, a copy of which is attached to this permit as Attachment A. The charts of maps, plans, and reports attached to this permit as Attachment B comprise the official plans for the project site.

#### **CONDITIONS**

1. The project shall be undertaken as conditioned herein and as described in the latest authorized maps attached hereto as Attachment A and the maps, plans, and reports referenced in the chart attached hereto as Attachment B. Failure to comply with this 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.
6. Prior to the construction of any structure or infrastructure on the project site, the Project Sponsor shall provide to all persons undertaking all or a portion of the project copies of Agency Order 2005-100 and this permit and its attachments, and copies of each and all of the latest approved maps and plans that contain on them the lot or structure being built. Prior to sale or lease of any lot or structure on the project site, the Project Sponsor shall provide to the prospective future owners or lessees of any portion of the Project site copies of Agency Order 2005-100 and this permit and its attachments, and copies of each and all of the latest approved maps and plans that contain on them the lot or structure being conveyed or leased. Where a lot has been conveyed by the Project Sponsor to another entity who will be responsible for construction of a structure thereon, the successor

shall be responsible for provision of Agency Order 2005-100 and this permit and its attachments, and the applicable maps and plans as described above to the contractor.

7. All deeds conveying all or a portion of the lands subject to this Permit shall contain the following language: "The lands conveyed are subject to Adirondack Park Agency Findings and Order 2005-100, issued \_\_\_\_\_, and Adirondack Park Agency Permit \_\_\_\_\_, issued \_\_\_\_\_, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
8. The Agency will conduct such on-site investigations, examinations, tests and evaluations on the Project site as it deems necessary during the undertaking of the project to ensure compliance with the terms and conditions herein. Such activities shall take place at reasonable times and upon advance notice where possible.
10. The Project shall be undertaken in compliance with all other applicable federal, state, county, and local requirements, permits and approvals.

#### **Legal Interests of Others**

16. This permit does not convey any rights to trespass upon the lands or interfere with the riparian rights of other persons in order to undertake any land use or development permitted as a result of the project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property held or vested in any person.

#### **Structure Footprints and Heights**

5. This permit authorizes the construction of one single family dwelling on each lot on the project site. No other structures shall be constructed on the project site without prior Agency approval.

No single family dwelling on the project site shall have a footprint greater than 2500 square feet. The measurement of the footprint of any dwelling shall include all covered and uncovered attached porches, decks, exterior stairs and

attached accessory components (such as an attached garage or shed).

No single family dwelling on the project site shall have a height greater than 35 feet, as measured from the highest point of the structure, not including the chimney, to the lowest point of existing grade or finished grade, whichever is lower.

#### **Building Color**

11. All exterior building materials, such as roof, siding, and trim, of any structure authorized herein shall be maintained in an earth tone color.

#### **Outdoor Lighting**

80. All building and street lighting on the project site shall comply with the latest approved lighting plan referenced in Attachment B. All free-standing and building-mounted outdoor lights shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward any road or neighboring lot. No outdoor light shall be located more than 20 feet above finished grade.

#### **Energy Use and Conservation**

109. All dwellings on the project site shall be designed and constructed to be ENERGY STAR Labeled Homes that meet or exceed guidelines for energy efficiency set by the US Environmental Protection Agency.
110. All dwellings on the project site shall also be designed and constructed to exceed by at least 20% the minimum standards of the Energy Conservation Construction Code of New York State in effect at the start of construction.
111. All residential construction shall be inspected and tested by Independent Home Energy Raters.
112. Heating, ventilating, air conditioning, lighting, and domestic hot water systems for all residential structures shall be designed, constructed, and operated to minimize energy consumption when they are not occupied.

113. All employment opportunities related to the construction, maintenance, and operation of the Project shall be listed on the New York State Job Bank. Employment opportunities must be listed concurrently with the Project Sponsor's use of any other recruitment source or effort.

**Limits of Vegetative Clearing**

104. The Project Sponsor or its successor shall submit a detailed landscaping plan for Agency review and approval at least 60 days prior to the start of any vegetative cutting or earthwork on the project site. The landscaping plan shall be prepared by a NYS registered landscape architect. The plan shall show the size (at time of planting), species, and proposed locations of all proposed trees, shrubs and groundcovers on a revised scaled site plan for all common areas in the general neighborhood and around the proposed multiple family dwellings, sidewalks and parking areas. If approvable, Agency approval of the landscaping plan will be given in the form of a letter of permit compliance.
105. The trees and shrubs required to be planted in conformance with the above landscaping plans shall be planted no later than the first spring or fall planting season after final grading related to the construction of the associated buildings. Trees and shrubs that do not survive shall be replaced annually until all are established in a healthy growing condition.
107. Plant species native to the Adirondack Mountains should be used to the greatest extent practical. No invasive species as determined through consultation with the Adirondack Park Invasive Plant Program ("APIPP") shall be planted on the Project site.

**Grading**

- xxx. No construction or grading shall occur outside the limits of clearing shown on the latest maps and plans referenced in Attachment B hereto.

**Homeowners Association**

33. The Adirondack Club and Resort Master Homeowner's Association ("ACR-HOA") shall be formed prior to the conveyance of any lot on the project site.
35. Any Homeowner's Association Declaration of Protective Covenants that applies to the project site shall specify that all structures constructed on lots subject to the association shall comply with this Permit and Agency Order 2005-100.
36. Any Homeowner's Association Declaration of Protective Covenants that applies to the project site shall specify that the maximum footprint of any structure shall include all covered and uncovered attached porches, decks, exterior stairs and attached accessory components (such as an attached garage or shed), except that the measurement of the maximum footprint for any townhome shall not include the front door entry stair in the measurement.

**Shoreline**

117. No docks or boathouses shall be constructed along any shoreline of the project site without a new or amended Agency permit or letter of permit compliance. No structure shall be constructed or other new land use or development undertaken within 100 feet of any shoreline without a new or amended permit, or letter of permit compliance.

**Wetlands**

13. Beyond that authorized herein, there shall be no cutting of vegetation in wetlands. Further, 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, or dredging or filling of a wetland, or any other activity, whether or not occurring within the wetland, that pollutes it or substantially impairs its functions, benefits or values.

**Invasive Species Control/Sanitizing Equipment**

96. Except for paving equipment and dump trucks used to transport hot asphalt, all equipment used for earth moving, grading or excavating on the Project site shall be washed with high pressure hoses and hot water, or other similar methods approved by the designated IEM, in a location approved by the designated Independent Environmental Monitor, in order to ensure that all equipment is clean and free of soil, mud, and other material that may contain invasive plants, seeds, or other propagules. All contractors shall make every effort to prevent invasive plant species from being introduced to the construction sites.
98. Within one year of creation of the ACR-HOA, the ACR-HOA shall develop a plan in consultation with APIPP to educate all owners, guests and maintenance and operational staff concerning the threat of invasive species and ways to minimize the introduction of invasive species to the Project site.

**Independent Environmental Monitors**

35. The Project Sponsor shall engage an independent environmental monitor during all construction on the project site. The IEM who oversees the installation of water, sewer, roads, and utility infrastructure shall be a licensed professional engineer. The IEM who oversees implementation of the stormwater plans shall be either a licensed professional engineer, registered landscape architect, or certified erosion control specialist. The IEM who monitors the remainder of any construction activities on the site shall be an appropriately qualified professional.
77. All IEMs shall be fully familiar with the findings and conditions contained in the Order and Permit, other municipal and state approvals and permits, and with all of the approved plans and drawings, specifications, and technical reports. The Agency reserves the right to disqualify an IEM based on non-compliance with the terms and conditions of this permit.



78. The IEM shall notify the Agency within 24 hours of any deviation from the approved final plans.

**Town and Village Joint Planning Board Subdivision Plats**

51. Prior to construction on or conveyance of any lot on the project site, the Project Sponsor or its successor shall submit to the Agency a preliminary subdivision plat for the site. Upon receipt of written approval from the Agency that this preliminary plat complies with the Master Plan attached hereto as Attachment A, and prior to construction on or conveyance of any lot depicted on the plat, the Project Sponsor or its successor shall record in the Office of the Franklin County Clerk a fully stamped final subdivision plat that matches the Master Plan shown as Attachment A. Within 30 days of recording this final plat, the Project Sponsor or its successor shall submit a copy of the final plat to the Agency.
15. The preliminary and final plats for the project site shall note that the lands are subject to the terms and conditions of this permit and Adirondack Park Agency Findings and Order 2005-100, and shall depict all wetlands and waterbodies on the project site as shown on the latest approved plans referenced in Attachment B hereto. At the request of the Agency, other relevant conditions from this Permit and its approved plans shall also be noted on the final plat.

**Water Supply**

65. Prior to construction of any structure or conveyance of any lot on the project site, the Project Sponsor or its successor shall submit to the Agency plans for water supply for all structures to be constructed on the site. Upon receipt of written approval from the Agency that these plans comply with the maps and plans referenced in Attachment B hereto, and prior to construction of any structure or conveyance of any lot depicted on these plans, the Project Sponsor or its successor shall obtain written approval of these water supply plans from the Town and Village of Tupper Lake, the New York State Department of Environmental Conservation and the New York State Department of Health, as necessary.

**Wastewater Treatment**

67. Prior to construction of any structure or conveyance of any lot on the project site, the Project Sponsor or its successor shall submit to the Agency conceptual plans depicting the sewage pump station and associated components. Upon receipt of written approval from the Agency that these conceptual plans comply with the maps and plans referenced in Attachment B hereto, and prior to construction of the pump station or conveyance of any lot to be connected to the pump station, the Project Sponsor or its successor shall obtain approval from the DEC, DOH, and Town and Village of Tupper Lake for these pump station plans.

**Erosion and Sediment Control/Stormwater Management**

55. Prior to construction of any structure or conveyance of any lot on the project site, the Project Sponsor or its successor shall submit to the Agency plans depicting stormwater management for the site. Upon receipt of written approval from the Agency that these plans comply with the maps and plans referenced in Attachment B hereto, and prior to construction of any structure or conveyance of any lot depicted on these plans, the Project Sponsor or its successor shall obtain approval from the DEC and Town of Tupper Lake, as necessary, for these stormwater management plans.
59. Any areas of disturbed soils or soil stockpiles that are not subject to active construction or other Project activity for a period of 14 consecutive days, unless a shorter number of consecutive days are specified in the approved plans, shall be temporarily stabilized by hydroseeding with ryegrass and mulch.

**Infrastructure**

52. Prior to the conveyance of any lot, unit, or structure on the project site, the Project Sponsor or its successor shall submit to the Agency for review and written approval documentation from the Independent Environmental Monitor who oversaw installation that all wastewater treatment and water supply infrastructure, stormwater management, roads, electric and cable systems, grading, and landscaping for

the project site have been completed according to the approved plans. Alternatively, a performance guarantee in the amount of the total estimated cost of completion of any unfinished infrastructure, plus a 20 percent contingency, may be authorized by permit amendment or letter of permit compliance. Any authorized performance guarantee must specify the Town of Tupper Lake as primary beneficiary or obligee.

54. No structure shall have wastewater treatment or water supply infrastructure except as authorized by this Permit.

**Agency Review of Future Subdivision and Development**

126. Beyond the development authorized by the Permit, no further new land use and development or subdivision shall be undertaken on the Project site without a new or amended permit, or letter of permit compliance.

**Other Approvals**

44. All required Federal, State and local approvals shall be obtained.

**FINDINGS OF FACT**

*The complete project description, findings of fact, and impact findings for this project are located in Agency Findings and Order 2005-100.*

**CONCLUSIONS OF LAW**

This permit is issued pursuant to the terms of Agency Order 2005-100.

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: \_\_\_\_\_

Attachment A

Latest Master Plan

Attachment B

The following maps and plans are the official plans for the project site.

**Maps and Plans**

Map No.	Map Title	Prepared By	Last Revision Date

The following are the official reports for the project site.

**Reports**

Report Title	Prepared By	Date of Report