


Staff Draft Not Approved by Agency  
1/13/2012

 <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p>	<p><b>APA Project Permit 2005-100 Marina</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 commercial use of the Adirondack Club and Resort Marina, 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 marina, as described in Adirondack Park Agency Findings and Order 2005-100. The project site is located on lands classified Moderate Intensity Use on the Adirondack Park Land Use and Development Plan Map.

**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**

21. The location, footprint and height of all structures on the project site shall be constructed in accordance with the latest approved plans referenced in the chart attached to this permit as Attachment B. The height of any structure shall be 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 plans referenced in Attachment B to this permit. 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.

#### Wetlands

84. Beyond that authorized herein, there shall be no cutting of vegetation in wetlands. Further, no "regulated activity" as defined in 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, which pollutes it or substantially impairs its functions, benefits or values.
85. Prior to operating the redeveloped marina, signage shall be developed for and placed at the marina by the Project Sponsor or its successor. The signage shall alert boaters of environmentally sensitive wetlands and direct boaters to proceed directly out of the marina to the buoyed boat channel that exists just beyond the ends of the proposed docks in order to avoid and minimize negative effects to wetland vegetation.

#### Shoreline

118. Prior to undertaking the re-use of the marina, the Project Sponsor shall implement the buoy plan referenced in Attachment B to this permit.
120. The existing dock master shed may be rebuilt to the same size in the same location as an in-kind replacement of the existing shed. The new structure shall not increase the existing lawful nonconformance with the shoreline restrictions consistent with 9 NYCRR § 575.5.

#### Invasive Species Control

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 Independent Environmental Monitor ("IEM"), in a location approved by

the IEM, 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.

97. Within six months of issuance of this Permit, the Project Sponsor or its successor shall develop a plan in consultation with the Adirondack Park Invasive Plant Program for control of invasive species during the construction phases of the project. The plan shall include best management practices for minimization and control of terrestrial and aquatic invasive species to be implemented by developers and contractors. The IEM shall be responsible for assuring timely and effective implementation of the plan during construction.
  
99. No boats shall be launched from the Tupper Lake State Boat Launch unless the boats and trailers are effectively washed to remove any invasive species at a boat wash station operated by the Project Sponsor or its successor on the project site. The boat wash station shall be constructed at the East Satellite Parking Area and shall be operational prior to implementation of the valet service.

**Signage**

82. Signage for the project will be themed to be consistent with the project's Adirondack character and shall meet the requirements of 9 NYCRR Subtitle Q, Appendix 3 and Section the Town and Village of Tupper Lake Land Use Code. Traffic control signage, such as stop signs, intersection signs, and parking signs shall be selected and installed to meet the NYS Manual of Uniform Traffic Control Devices (MUTCD) and NYS Department of Transportation (NYSDOT) standards.
  
83. Off-premise directional signing for the project within the NYSDOT right-of-way shall require NYSDOT approval.

**Independent Environmental Monitors**

35. The Project Sponsor shall engage an independent environmental monitor during all construction on the project site. 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.

#### **Water Supply**

65. Prior to construction of any structure or any improvements to the project site, the Project Sponsor or its successor shall obtain written approval for the proposed connection to the municipal water supply system 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**

39. Prior to construction of any structure or any improvements to the project site, the Project Sponsor or its successor shall obtain written approval for the proposed connection to the municipal wastewater collection and treatment system from the Town and Village of Tupper Lake, New York State Department of Environmental Conservation, and the New York State Department of Health, as necessary.

#### **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 and erosion and sediment control 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 construction of any structure or any improvements to the project site, the Project Sponsor or its successor shall connect to the municipal water supply system and the municipal wastewater collection and treatment system in accordance with the approved plans.
52. Within 60 days of issuance of a Certificate of Occupancy for any new or replacement 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 stormwater management, grading, and landscaping for the project site have been completed according to the approved plans.
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