

 <p>P.O. Box 99 • Ray Brook, New York 12977 (518) 891-4050 www.apa.ny.gov</p>	<p>APA Project Permit 2013-111</p>
<p>In the Matter of the Application of BARBER HOMESTEAD PARK, LLC for a permit pursuant to §809 of the Adirondack Park Agency Act</p>	<p>Date Issued:</p> <p>To the County Clerk: This permit must be recorded on or before _____. Please index this permit in the grantor index under the following names: 1. Barber Homestead Park, LLC</p>

SUMMARY AND AUTHORIZATION

Barber Homestead Trust and Erwin Barber are granted a permit for 14 additional recreational vehicle (RV) sites at a previously approved 40 site RV campground in an area classified Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Westport, 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 _____ 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 infrastructure for the fourteen RV sites has been completed.

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 greater than 25% expansion of an Agency approved RV campground that is subject to condition 2 of Agency Permit 90-647 requiring Agency review of any new land use or development at the campground.

PROJECT SITE

The 14 new campsites will be located on a 0.83±-acre portion of a 91.6±-acre parcel located on Barber Road and Camp Dudley Road, the latter also known as Essex County Route 22G. The 91.6±-acre parcel contains approximately 800 feet of shoreline on Lake Champlain. The shoreline portion of the parcel is primarily used by the Barber Trust, not the occupants of the campground. However, users of the campground are allowed to carry their canoes or kayaks to the shoreline to gain access and use of Lake Champlain or to fish from the shoreline. The previously approved campground is located on an approximately 7±-acre portion of the 91.6±-acre parcel, excluding the sewage absorption area. The campground is located approximately 1,500 feet east of Camp Dudley Road and approximately one mile southeast of the Village of Westport.

The 91.6±-acre parcel is designated parcel 76.02-1-31 on the Town of Westport Real Property Tax Map. It is more particularly described in a deed to the Barber Homestead Trust from Ruth L. Barber dated December 30, 1991 and recorded in the Essex County Clerk's Office on December 31, 1991 in Book 1005 of Deeds at page 247.

The 84.6±-acre portion of the Barber Homestead Trust lands which is not part of the campground contains the Barber homestead, a barn and various other agricultural outbuildings and fields, pasture, woodlands, an old orchard, two preexisting camps, and two trailers.

PROJECT DESCRIPTION AS PROPOSED

The project as proposed is summarized as follows: The project consists of the addition of 14 RV campsites to an Agency approved 40 site RV campground. Infrastructure, consisting of a gravel access road, gravel RV pads, a septic tank, duplex pump station and municipal water and electric service will be installed to serve the new sites. The existing on-site wastewater treatment system absorption trenches will serve the 14 new sites in addition to the existing 40 sites. The new sites and infrastructure are shown on sheets C-1.1 and C-3.0 entitled "Sketch Plans - R.V. Park Expansion Plans" drawn by Engineering Ventures, PC dated May 13, 2013. A reduced scale copy of the site 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 project sponsor has agreed that the conditions of this permit will apply to the entire campground and supercede Agency Permit 90-647.

CONDITIONS

BASED UPON THE FINDINGS BELOW, THE PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. The project shall be undertaken as described in Agency Permits 90-647, 90-647B, and 90-647C and 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.
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 2013-111 issued _____, 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.

Projected Remaining Building Density

4. The 91.6±-acre project site is located in the Lakeshore Residential zoning district in the Town of Westport. As established by the Town of Westport Agency-approved local land use program, the minimum lot size for new principal buildings on the project site is 8.5 acres per principal building. Accordingly, since the registration building is a principal building and the 91.6± acres has a potential total of 11 principal buildings no more than 10 additional principal

buildings shall be allowed on the 91.6±-acre project site or as otherwise restricted by the Town's plan for other types of uses. Due to site limitations, the Agency makes no assurances the maximum development mathematically allowed can be approved.

The structure that has the bathrooms, showers, laundry and pavilion within its footprint is an accessory structure to the campground.

Campground Operation

5. The project sponsor may rent sites in the campground for temporary or seasonal overnight camping. Campsite rentals shall not be automatically renewed or in any way guaranteed from one campground season to the next.
6. All RVs/travel trailers on the sites shall be readily moveable. This means that they must: (a) be designed for and capable of regular over-road travel and currently registered as a vehicle; (b) have wheels on at all times; (c) not have any associated structural elements such as decks, roofs or fencing; (d) not require a DOT Special Hauling Permit for travel over State roads; and (e) not be permanently connected to water, sewer and electric hook-ups; and (f) be disconnected from all sewer, water and electric hook-ups from November 1st to April 30th, i.e., when the campground is not in operation.

Outdoor Lighting

7. Any new free-standing and building mounted outdoor lights associated in the campground 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 Barber Road or adjoining property. The intent is to reduce nighttime light pollution (glare, light trespass and sky glow).

Signage

8. Any signs on the project site shall comply with 9 NYCRR Appendix Q-3 of the Adirondack Park Agency Regulations. A sign plan shall be submitted to the Agency for approval prior to installation.

Wastewater Treatment

9. The proposed septic tank and duplex pump chamber shall be constructed in complete conformity with the location(s) and design(s) 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.

Visual/Open Space Protection

10. On the project site, between Barber Road and the 14 new campsites, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed within the 50 feet of the edge of right of way of Barber Road. This condition shall not be deemed to prevent the agricultural uses of the land, normal mowing of lawns or the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.

Noise and Trespass

11. The project sponsors shall enforce the Barber homestead Park Camground policies, received by the Agency on August 21, 2013. The project sponsors shall also provide to campers upon registration a copy of the map described herein delineating the campground area.

Agency Review of Future Subdivision and Development

12. No construction of buildings, subdivision of land, or other "land use or development" as defined in Section 802(28) of the Adirondack Park Agency Act, not expressly authorized by this permit shall be undertaken without an additional Agency permit, amended permit, or letter of non-jurisdiction pursuant to 9 NYCRR Part 571.

Legal Interests of Others

13. This permit does not convey to the projects sponsor or users of the campground any right to trespass upon the lands or interfere with the riparian 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.

FINDINGS OF FACT

Local Land Use Program

1. The Town of Westport administers a local land use plan program approved by the Agency pursuant to Section 807 of the APA Act, effective February 9, 1996. Permit 90-647 was issued by the Agency on October 19, 1993, prior to adoption of the Town of Westport program. The pertinent requirements and conditions of the approved program are reflected in the statutory development considerations and addressed in these findings of fact.

Background/Prior History

2. The project site is the subject of Agency Permit 90-647, 90-647A and 90-647B.

Existing Environmental Setting

3. The surrounding area consists of two types of open space agricultural landscapes. To the west of Camp Dudley Road, the landscape is dominated by large agricultural lands, with extensive vistas of the Adirondack and Green Mountains, and with widely scattered residences and farm structures. To the east of Camp Dudley Road, in the immediate vicinity of the project site, the landscape consists of smaller open meadows and agricultural lands, wooded areas, and scattered residences and farm structures, including the Barber farm. Due to topography and vegetation, the campground is not visible from Camp Dudley Road or from areas further west, nor is it substantially visible from Lake Champlain. However, it will be visible from Barber Road and an adjoining property.
4. Approximately thirteen residences, both seasonal and year-round, are located within 1/4 mile of the campground. There is a residence at the end of Barber Road which is located approximately 700 feet northeast of the closest new campsite and there is a residence off a private road which is located approximately 700 feet southwest of the closest new campsite. The majority of the other dwellings in the vicinity of the campground are located more than 1,000 feet from the nearest new campsite.

Camp Dudley, a summer boys' camp, is located approximately 2,000 feet southwest of the project site. The applicants have stated on a daily basis when the camp is in operation noise such as a PA system, horns, cannon shots can be heard at the project site. Camp Dudley also has a July 4th parade starting at 7:00 am that generates substantial noise for a long period of time during the

day. Although noise from activities at Camp Dudley, can be heard at the project site and in the surrounding area, the character of the area is generally of a relatively quiet and rural character.

5. The Barber family land holdings in the vicinity of the campground is predominantly open field and pasture, in various states of active agricultural use for grazing and haying. Barber Road bisects the fields.
6. The Barber family land holdings also contains wooded areas consisting of a mixture of indigenous deciduous and coniferous trees located along Camp Dudley Road, which together with intervening topography, screen the existing and proposed campsites from Camp Dudley Road and from New York State Route 9N/22. The areas where the campsites and the on-site sewage disposal system are located are gentle sloping and consist primarily of open fields formerly used as a pasture and an orchard, and an area vegetated with deciduous trees and shrubs. The project site's shoreline, located immediately to the south of those areas, is undeveloped, and is located down a steep tree-covered slope from the agricultural fields east of the campsite area. Two small unwinterized cabins and Barber family-owned RV trailers are located at the top of the slope. Although these facilities may be rented to the general public, they are usually rented to family members.
7. The topography of the proposed 14 new campsites is flat.
8. The project site is located within Essex County Agricultural District #2, which is approximately 4,225 acres in size. The proposed 14 new campsites will occupy approximately 0.83 acres of the project site. Soils on the project site consist of Kingsbury clay, Vergennes silty clay loam and Benson fine sandy loam with areas of bedrock.
9. The project site is accessed from Barber Road, a 3,000-foot dead-end town-maintained road which was recently paved with asphalt to a width of 18 feet. Barber Road provides access to seven tourist accommodation/residential structures, including the Barber residence, camps owned by the Barbers, and two neighboring residences. The Barber property contains 2,545 feet of frontage on Barber Road. Barber Road connects with the regional highway network via Camp Dudley Road, a paved two-lane highway approximately 18 feet in width and having a speed limit of 55 mph. Peak traffic levels on Camp Dudley Road where estimated to be 800 trip ends per day, or 98.5 trip ends per hour at peak hours in 1992. Traffic has not substantially increased since 1992.

10. No new principal buildings are proposed as part of the 14 new campsites. There is a 20 by 30 foot administration building which constitutes a principal building and a bathhouse/laundry/pavilion which is considered an accessory structure to the campground. The administration building contains the camp offices and an accessory camp store. The bathhouse/pavilion for the campground units contains showers, lavatories, toilets, laundry facilities and an outdoor pavilion.

The campground also has an RV dump station which is located near the administration building, as well as a pay phone listing a number for after-hours assistance. Each new campsite will be provided with a water and electrical hookup, a picnic table, and an individual or shared fire ring. No other on-site amenities are proposed.

11. The applicants have provided the Agency with and will enforce Barber Homestead Park Campground Policies, received by the Agency on August 21, 2013. The policies will be provided to campers upon registration with a copy of a map delineating the campground area.
12. The project site is within the boundaries of the 1,050 acre Camp Dudley Road Historic District, which on August 30, 1993 was officially listed by the New York State Office of Historic Preservation on the State Register of Historic Places pursuant to §14.09 of the State Historic Preservation Act of 1980, and has been nominated for inclusion on the National Registry. Relevant resources within the District include the open agricultural landscape, reflecting the historic patterns of agricultural activity in the area, the Barber homestead, and structures located on parcels adjoining the project site, including the Barber Point lighthouse and Kenjockey, an architecturally significant Great Camp (located approximately 850 and 1,100 feet, respectively, from the campground area), and the Frisbie cottages approximately 700± feet to the south.
13. The 14 new campsites will be accessed from the existing access road through the campground. Entrance and exit to the campground is via a 20-foot-wide, two-way access road which intersects Barber Road across from the existing Barber homestead. An existing access road located along the site's easterly boundary line will serve as an emergency exit. The access road will be treated as shown on specifications on Sheet 5 of 7, dated September 13, 1991 and last revised July 26, 1993. There is a parking area for up to three RVs near the administration building between the proposed entrance gate and Barber Road for after-hours use.

14. Electric service will be provided from existing utilities located along Barber Road. Utilities will be installed underground from overhead utility poles along the road. Water will be supplied by the town water district which has sufficient, capacity. All utilities on the campground will be underground.

Traffic

15. The project sponsors have kept occupancy records since the campground opened and according to their estimates and experience in operating the campground vehicular traffic will not exceed the worst case scenario envisioned when the campground was originally approved by the Agency in Permit 90-647.

Finding of Fact 22 of Permit 90-647, for the original 40 site campground estimated 560 trip ends per day based upon worse case assumption. Based on the observations of the owners and operators of the campground, campground users generally make 0 to 3 trips per day, resulting in a maximum of 6 trip ends per day. If the campground were at 100% occupancy, and allowing for an additional 25% for multiple vehicles and guests, that would be 300 trip ends per day. The additional 14 campsites at 100% occupancy are expected to contribute 106 additional trip ends per day resulting in 406 trip ends per day, total. This value based on 100% occupancy is well below the estimated 560 trip ends per day set forth in Finding of Fact 22 from Agency Permit 90-647.

The project sponsors have tracked the occupancy rate of the transient sites (those available for short term stays) over the last 12 years and it ranged from 20 to 45% for the whole season. The average occupancy in the month of July, the peak month, was 56%. During the last 5 years 60 to 70% of the 40 sites are rented as seasonal camping sites. For these sites, the campground user does not come and go, instead the people do, mostly on weekends, with a one or two week continuous stay during the summer. During July, the occupancy rate for 40 sites is also approximately 56%. Using an average recorded occupancy rate of 56% as the occupancy rate for 40 sites plus an additional 25% allowance for multiple vehicles and guests, at 6 trip ends per site per day, the average trip ends during the peak month is 168 per day.

Public Notice and Comment

16. The Agency notified all adjoining landowners and those parties as statutorily required by §809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. Seven comment letters were received voicing concerns regarding noise, dust, odor, trespass, lake access and the number of proposed recreational vehicle sites.

Local Government Comment

17. The Adirondack Park Agency sent notice regarding the above permit application to the Town of Westport Planning Board by letter dated July 8, 2013. The Planning Board responded by a letter dated July 24, 2013, advising the Agency that at its April 24, 2013 and June 26, 2013 the expansion of the campground by 14 RV sites was discussed. During the April 24, 2013 meeting the Planning Board determined the project is approvable under pertinent local requirements. The letter stated in pertinent part that noise and trespassing were brought to the Planning Boards attention and it is the boards opinion that noise and trespassing should be addressed in the Agency's approval, if granted.

Other Regulatory Permits and Approvals

18. NYS Department of Health (NYSDOH) was consulted during the review of this project. By letter dated July 31, 2013 NYSDOH approved the engineering plans for the addition of 14 new RV sites and modifications to the on-site wastewater treatment system and water distribution system at the campground.
19. To prevent importation of wood-borne invasive species, NYS Law prohibits transportation of firewood more than fifty (50) miles from its source unless it is kiln-dried. All transported firewood must be labeled according to regulation. The law is enforced by the NYS Department of Environmental Conservation and more information can be found on the DEC's website. The project sponsors are aware of this situation and in fact the campground rules and policies advises campers of the firewood regulations and local firewood is available at the campground.

The Adirondack Invasive Plant Program (APIPP) can be consulted for additional information and training of campground staff regarding aquatic and terrestrial invasives as needed.

Economic/Fiscal Factors

20. The owners and operators of the campground do not anticipate adding any additional employees to accommodate the additional 14 campsites. The current payroll for the seasonal campground is approximately \$5,500.00 and there are 2 part time seasonal employees.

The current assessed value of the campground is \$138,000.00 which is used to levy school, Town and County taxes. Once the additional campsites are completed the assessed value will likely increase which will provide additional revenues for the school system, Town and County.

It is anticipated that construction of the new campsites will cost approximately \$35,000.00 and provide short term work for several local contractors. The additional campsites will also bring more individuals to the area who may visit local shops, restaurants, marinas, golf courses or grocery stores. Westport has a tourism based economy; therefore, increasing the number of accommodations for tourist supports the local economy and community.

PROJECT IMPACTS

Adjoining Land Owners/Noise/Trespass

21. Provided the campground owners and operators enforce the Barber Homestead Policies described herein regarding noise due to the addition of 14 new campsites there will not be any undue adverse noise impacts to nearby or adjoining land owners. There is a staff member on site at all times and the staff person patrols the campground to ensure campers or their guests are not being "noisy". If the staff feels music, child play or dog barking is excessive the staff person discusses the situation with the camper(s) and the situation is resolved. Camper generators are not allowed to be operated unless there is a power outage.

Water Resources

22. Provided the infrastructure proposed to serve the 14 new RV sites is installed in strict compliance with the approved plans and in accordance with NYSDOH requirements referred to herein there will not be no material adverse impact to ground or surface waters on or off the project site.

Open Space/Aesthetics

23. The 14 new campsites will be clustered on 0.83± acres of land and the remaining 84.6± acres of open space agricultural lands will remain undeveloped and continue to be used as open space farmland.

The 14 new campsites will be screened from Barber Road and nearby properties by the clustering of sites and retention of existing trees and shrubs along Barber Road and to the south of the campsites, within the forested ravine.

Supplemental plantings consisting of staggered random plantings of rock maple, red cedar, oak and basswood, 10 to 15 feet apart, 10 to 15 feet tall and 2 to 5 inch caliper have been intermixed with existing vegetation along Barber Road in the vicinity of the proposed campsites.

The addition of 14 new campsites will not have an adverse impact to the open space agricultural uses of the land.

24. Allowing the users of the campground to use the 800 feet of shoreline to launch canoes and kayaks and use Lake Champlain for recreational uses will not have an adverse impact to the shoreline or character of Lake Champlain.

Operational Issues Affecting Nearby Land Uses

25. The addition of 14 new campsites will not change the months or days of operation of the campground. The campground will operate from May through October seven days a week. Quiet hours are from 11:00 pm to 8 am. The campsites rules and regulations will be provided to the occupants of the 14 new campsites and strictly enforced by the owners of the campground.

Historic Sites or Structures

26. By letter dated April 23, 2013 NYS Office of Parks, Recreation and Historic Preservation determined the project will have No Adverse Impact on resources in or eligible for inclusion in the State or National Register of Historic Places. Therefore, 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.

CONCLUSIONS OF LAW

If undertaken in compliance with the conditions herein, consistent with Executive Law Section 809(9):

- 1. The project will meet all of the pertinent requirements and conditions of the approved local land use program of the Town of Westport;
- 2. The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the economic and social benefits that might be derived therefrom.

PERMIT issued this day
of , 2013

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 2013, 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:TES:GAB:mlr