

Draft not approved by Agency



Regulatory Programs Committee
November 14, 2013 Agency
Meeting; REW:mlr

**Regulatory Programs Committee
November 14, 2013**

Committee Members present: Sherman Craig, Chair, Richard Booth, Arthur Lussi, William Valentino and Dede Scozzafava (Department of State), and Other Agency Members and Designees present: Leilani Crafts Ulrich, Chairwoman, Daniel Wilt, Robert Stegemann (Department of Environmental Conservation), Bradley Austin, (NYS Department of Economic Development), and William Thomas and Karen Feldman. Agency Staff present: Terry Martino, Executive Director and James Townsend, Counsel

Local Government Review Board Representative: Frederick Monroe, Executive Director

The Committee convened at 9:30am.

1. Approval of October Draft Regulatory Programs Committee Minutes

On motion of Mr. Booth and seconded by Mr. Lussi, the Committee unanimously adopted the Draft Regulatory Committee Minutes of the October 2013 Agency meeting.

2. Deputy Director (Regulatory Programs) Report (R. Weber)

Mr. Weber reviewed the Status and High Profile reports for Regulatory Programs. He briefly discussed applications received and permits issued.

Mr. Weber noted the Agency issued ARISE in Tupper Lake, NY a permit for the temporary re-use of an existing ski facility similar to the prior Agency permits.

Mr. Weber briefly discussed P2013-239, Lyme Adirondack Timberlands I, LLC. He said this project originally came to the Agency as a preapplication with considerable work performed by staff and the applicant prior to submitting the application. The application was received on November 4th and was completed on November 11, 2013. Mr. Weber said the forest management plans reviewed by staff answer most of the questions in the permit application.

Mr. Weber briefly described the preapplication A2013-161, Hadley Wind. The project sponsor requested preliminary consultation and possibly conceptual review of a proposed wind farm involving potentially 20 plus turbines on an 1800± acre site. He said staff is meeting with applicant to discuss their proposal.

Mr. Weber stated the Agency was notified on November 13, 2013 that the applicant for Sunset Farm, Ltd., has elected to withdraw the pending application P2011-95 and as a result there will be no need for an adjudicatory hearing.

Mr. Weber stated that he and Shaun Lalonde attended a meeting held at NYS Dept. of Environmental Conservation (DEC) regarding the Towns of Jay and Keene. Each town has received \$3 million as part of a NY Rising grant to assist with drafting plans and implementation of projects for the management of flooding and responses to extreme storm events. The project consultant asked for the meeting with DEC and APA staff that are most familiar with river response and post-storm work. DEC, DOT and APA staff will continue working with the project consultants as the planning work progresses.

Mr. Stegemann added the towns are engaging their communities directly into the process and he congratulated the towns for reaching out to the agencies involved. It was noted the group will coordinate this process with the Hamlet 3 process and Mr. Weber reiterated the group effort to inform all parties is very encouraging.

Mr. Weber briefly provided a brief report on the applications received in 2012 that have not yet been deemed complete or have resulted in any final Agency determination. He noted that 11 project applications had remained opened after a Notice of Incomplete Application (NIPA) had been sent to applicants. Mr. Weber met with staff to discuss what was happening with the 11 projects that had been identified. Phone calls were then made to the project sponsors to find out why they did not respond to the NIPAs. He listed the results: 1 applicant was postponing the project, 1 not confirmed, 2 did not wish to respond to NIPA, 5 were assessing options and/or working on a response and 2 were revising their applications to be non-jurisdictional.

Mr. Weber stated that one of the applicants who did not wish to respond to the NIPA expressed their reservation to employ a backhoe for a deep hole test pit. In this case, staff offered to perform a shovel test in lieu of the machine dug hole. The second applicant who chose not to respond to the NIPA stated they did so because of Agency permitting

requirements. Mr. Weber stated that in all cases the information requested was considered necessary to make the required findings in project review.

4. 2013-172 (T. Darrah)
Maple Development Group
Dannemora and Saranac, Clinton County
Moderate Intensity Use

Ms. Darrah introduced Michael O'Connor, Esq., and Luigi A. Palleschi representing the applicant, Maple Development Group, the construction company building the facility.

Ms. Darrah used a slide presentation to describe Agency jurisdiction, the proposed project, project site and land use area. She stated the larger part of the proposed project is located in the Town of Dannemora.

She described the existing environmental settings. She stated the proposed project site is within an area characterized by residential and commercial uses. Ms. Darrah said the proposed project site is located approximately ¼ mile from the Hamlet land use area and approximately ¼ mile from the New York State Dannemora Correctional Facility.

Ms. Darrah explained that a pre-existing single family dwelling located on the property will be demolished and removed from the site. She stated the main entrance will be located on Haley Way and will cross an existing utility line easement. Ms. Darrah noted a sewer line easement bisects the property from northwest to southeast and a water line easement is located along the edge of the property adjacent to NYS Route 374.

Ms. Darrah explained that a retaining wall with railing will be installed along the edge of the paved area south and east of the building.

Ms. Darrah said a paved parking lot with approximately 23 parking spaces will be constructed.

Ms. Darrah noted the stormwater management plan prepared was reviewed by Agency staff. Because the proposed area of disturbance is less than 1 acre, Dept. of Environmental Conservation review of the plan was not required.

She showed slides depicting the proposed building façade, sign and lighting proposals.

Ms. Darrah noted three comment letters were received from adjoining landowners expressing concerns regarding noise, traffic, lighting and stormwater pollution and other potential proposed impacts. She said Agency staff reviewed the comment letters and proposed plans and believe the conditions in the proposed permit will minimize the potential impacts to the adjoining landowners.

Mr. Lalonde explained that the stormwater prevention plan addressed all the impervious area including the runoff from the roof of the proposed building. Mr. Lalonde stated any overflow from the roof is directed into the existing municipal storm sewer. He added that the plan was designed to meet DEC standards.

Mr. Stegemann asked if the comment letter regarding Haley Way and the related storm water issue has been addressed by Agency staff and if granting this permit makes the existing situation any worse. Mr. Lalonde replied that the stormwater plan addresses the proposed project site. Mr. Lalonde stated the Agency does not have jurisdiction over Haley Road and therefore staff did not review this aspect of the proposal.

Ms. Ulrich commented that it is unfortunate that there is no local zoning for the review of this proposed project and that the Agency is totally responsible for the review. She asked if the applicant chose to make changes to the location or the façade of the proposed building what would be the process for the applicant.

Mr. Weber replied that it will depend on the significance of the proposed changes. He said the permit is currently constructed to ensure that even minor modifications to the site plan would require Agency review and a permit amendment. If a more significant change were requested a new permit may be required.

Ms. Ulrich commented on a recent presentation she had seen that encouraged towns and communities in the Adirondack Park to accentuate what is unique about their community. The presentation showed many visuals of commercial buildings and how they could be designed to fit in with the Adirondack surroundings. She stated subtle changes can make a big difference in the design of a commercial building and how it fits with the character of the community.

Mr. Monroe commented that if the proposed site was zoned Hamlet this project would be non-jurisdictional. He stated this area might be a good candidate for a future map amendment.

Question was asked how the widening of Haley Road is being addressed by the Agency. Ms. Darrah explained that the Department of Transportation reviewed and issued a highway permit for the proposal to widen Haley Road within the DOT right-of-way.

Mr. Weber stated that the Town Board did approve a resolution for the road work in the Town right-of-way. Agency Counsel suggested the Town resolution language be added to the draft permit.

Mr. Weber stated that the Agency's development considerations, particularly the aesthetic and scenic considerations allow staff to review and make Findings that a given proposal is compatible with the existing land use area.

Mr. Booth questioned a commercial use on a substandard sized lot in relation to the intensity guidelines. Associate Counsel Reynolds replied that in this case the proposed lot meets the average lot size. The applicant, however, did not have sufficient acreage to have both the proposed commercial use and the replacement of the pre-existing single family dwelling.

Mr. Booth asked if there is a lower threshold where this proposal would not be permissible on a lot in a Moderate Intensity land use area. Ms. Reynolds replied if it had been a vacant lot and smaller than half the average lot size, staff may not have been able to make the overall intensity guideline finding.

Mr. Craig made a motion to move the project to Full Agency for approval, the motion was seconded by Mr. Lussi. The Regulatory Committee voted unanimously in favor of the motion.

4. Old Business: No

5. New Business: No

Adjournment: The Regulatory Committee meeting adjourned at 11:25 am.

Note: The power point presentations referred to herein are on file at the Agency. Copies are also available for inspection on request and can be viewed at http://nysapa.granicus.com/ViewPublisher.php?view_id=2 of this meeting: