

 <p>Adirondack parkagency P.O. Box 99 • Ray Brook, New York 12977 (518) 891-4050 www.apa.ny.gov</p>	<p>APA Project Permit 2014-33</p>
<p>In the Matter of the Application of KENNY-DITTRICH-AMHERST, LLC</p> <p>for a permit pursuant to §809 of the Adirondack Park Agency Act</p>	<p>Date Issued: July 15, 2014</p>
	<p>To the County Clerk: This permit must be recorded on or before September 15, 2014. Please index this permit in the grantor index under the following names:</p> <p>1. Kenny-Dittrich-Amherst, LLC</p>

SUMMARY AND AUTHORIZATION

Kenny-Dittrich-Amherst, LLC is granted a permit, on conditions, authorizing a 120 room hotel greater than 40 feet in height in an area classified Hamlet by the Official Adirondack Park Land Use and Development Plan Map in the Village of Lake George, Town of Lake George, Warren County.

This project may not be undertaken, and no transfer deed shall be recorded, until this permit is recorded in the Warren County Clerk's Office. This permit shall expire unless so recorded on or before September 15, 2014 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 construction of the hotel is complete and a certificate of occupancy has been issued.

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 construction in a Hamlet land use area of a new (hotel) structure greater than 40 feet in height, and involving more than 100 guest rooms, a Class A regional project pursuant to §810(1)(a)(4) and (3) respectively, which (in a Village/Town with an Agency approved local land use program) requires an Agency permit pursuant to § 809(9) of the Adirondack Park Agency Act.

PROJECT SITE

The project site is a 2.09±-acre parcel of land located on Canada Street in the Village and Town of Lake George, Warren County, in an area classified Hamlet on the Adirondack Park Land Use and Development Plan Map. It is identified on Village of Lake George Tax Map Section 251, Block 2 as Parcels 3, 4, 5, 6, 9 and 11. The project site is described in the following deeds to Kenny-Dittrich-Amherst, LLC which were recorded in the Warren County Clerk's Office: a deed recorded July 29, 2005 in Liber 1459 of Deeds at Page 45 (tax lots 3 and 9); a deed recorded June 2, 2013 in Liber 4655 of Deeds at Page 18 (tax lot 4); a deed recorded June 2, 2013 in Liber 4655 of Deeds at Page 22 (tax lot 5); a deed recorded June 2, 2013 in Liber 4655 of Deeds at Page 26 (tax lot 6); and a deed recorded January 30, 2012 in Liber 4416 of Deeds at Page 30 (tax lot 11).

PROJECT DESCRIPTION AS PROPOSED

The project as proposed is summarized as follows: The construction of a 120 room hotel with a restaurant, conference/banquet facilities, and retail shops. Existing buildings on the project site will be removed and replaced by the new hotel. The hotel will be 6 stories and no more than 72 feet in height as measured from the lowest grade to the highest point on the building. The exterior will be finished in "Adirondack Style," with timber and stone accents and brown and green colors. The roof of the hotel will include a landscaped "Guest Limited Use Area - Rooftop Garden" with tables and chairs. The applicant proposes to operate the hotel as a Marriott Courtyard hotel.

As detailed on the project plans, an existing paved parking area located at the back of the project site off Ottawa Street will be upgraded for the new hotel, including new stormwater components and infrastructure. The hotel will connect to Village of Lake George Municipal Water and Sewer facilities.

The project is shown on plans prepared by Miller Associates and Nace Engineering PC, entitled "Kenny-Dittrich-Amherst, LLC," and dated November 13, 2013, including: Sheet SP-1 *Existing Conditions & Removal Plan* last revised February 17, 2014; Sheet SP-2 *Layout and Utility*

Plan last revised February 17, 2014; Sheet SP-3 *Grading and Drainage Plan*, the most recent revision of which was received at that Agency on May 22, 2014; Sheet SP-4 *Site Details* last revised February 17, 2014; Sheet SP-5 *Site and Utility Details* last revised February 17, 2014; Sheet SP-6 *Landscape Plan* last revised February 17, 2014; Sheet SP-7 *Site Lighting Plan* last revised February 17, 2014; Sheet SP-8 *Erosion and Sediment Control Plan* dated April 1, 2014; and Sheet SP-9 *Erosion and Sediment Control Plan For Demolition*, dated May 2, 2014.

The project is further shown on conceptual (undated) architectural drawings prepared by Rucinski Hall Architecture, entitled "New Hotel Facility for Kenny-Dittrich-Amherst, LLC," including Sheet CN-6 *Conceptual Front Elevation*, and Sheet CN-9 *Conceptual Rear Elevation*, the most recent revisions of which were received at the Agency on June 6, 2014. The architectural drawings also include the following plan sheets, copies of which were received at the Agency on May 22, 2014: Sheet CN-0 *Conceptual Basement Plan*; Sheet CN-1 *Conceptual First Floor Plan*; Sheet CN-2 *Conceptual Second Floor Plan*; Sheet CN-3 *Conceptual Third Floor Plan*; Sheet CN-4 *Conceptual Fourth Floor Plan*; Sheet CN-5 *Conceptual Fifth & Sixth Floor Plans*; Sheet CN-7 *Conceptual Right Side Elevation Plan*; Sheet CN-8 *Conceptual Left Side Elevation Plan*; and Sheet CN-10 *Conceptual Roof Plan*.

In addition to Sheet SP-8, a "Stormwater Management Report and Stormwater Pollution Prevention Plan Narrative for New Hotel Project" prepared by Nace Engineering, P.C. and dated December 2013, was submitted to the Agency on April 10, 2014, with "Stormwater Pollution Prevention Plan Narrative Appendices" submitted to the Agency on May 22, 2014.

Reduced scale copies of Sheets SP-1, SP-2, CN-6 and CN-9 are 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.

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.

2. This permit is binding on the applicant, 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 No. 2014-33 issued July 15, 2014, 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 the new hotel as shown on the project plans. The height of the structure shall not exceed 72 feet as measured from the highest point on the structure to the lowest point of existing grade or finished grade, whichever is lower.

Building Color / Architectural Style

5. The building shall be constructed in accordance with the architectural style and colors depicted on the elevation plans and visual simulations referenced herein. All exterior building materials, including roof, siding and trim, used to surface the exterior of the structure authorized herein shall be natural earth tone colors.

Outdoor Lighting

6. All new 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, toward Lake George, or adjoining property.

Wetlands

7. No "regulated activity" as defined in the Agency's regulations pertaining to freshwater wetlands (9 NYCRR Part 578) shall occur on the project site without prior Agency approval. Such activities include any activity, whether or not occurring directly within a wetland, which pollutes it or substantially impairs its functions, benefits or values.

Wastewater Treatment

8. All sanitary sewage generated from the project shall be connected to and treated by the municipal wastewater collection and treatment system.

Visual/Open Space Protection

9. All plantings and landscaping shall be undertaken and maintained as shown on the Landscape Plan (Sheet SP-6) referenced herein. Any changes to the landscaping plan, as reviewed and approved by the Village of Lake George, shall be submitted to the Agency for approval in the form of an amended permit or letter of permit compliance.

Stormwater Management and Erosion and Sediment Control

10. Stormwater management and erosion and sediment controls shall be installed and maintained in accordance with the plans and reports referenced herein.

Signage

11. All signs on the project site shall comply with the Village of Lake George Zoning Regulations. Any changes to signage deviating from the submitted plans shall be submitted to the Agency with revised plans for approval in the form of an amended permit or letter of permit compliance. A copy of any application for a sign permit or variance filed with the Village shall be provided to the Agency at the time it is filed.

Energy Conservation

12. At a minimum, the development authorized herein shall be designed and constructed to comply with the most current Energy Conservation Construction Code of New York State, in effect at the time when the hotel is constructed. This will include adherence to properly selected, installed and inspected

insulation, high performance windows, tight building envelope construction and duct work and efficient heating and cooling equipment.

All buildings and facilities shall use the highest rated Energy Star products (current at the time of construction), including light fixtures, appliances, and equipment to the maximum extent possible.

Legal Interests of Others

13. This permit does not convey to the permittee 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.

Agency Review of Future Subdivision and Development

14. There shall be no expansion in the size or height of the hotel structure authorized herein without a new or amended Agency permit, or letter of permit compliance.

FINDINGS OF FACT

Local Land Use Program

1. The Village of Lake George (the "Village") administers a local land use plan program approved by the Agency pursuant to Section 807 of the APA Act, effective July 19, 1985. As a result, the Agency must determine that the project meets all of the pertinent requirements and conditions of the approved program. As part of its application, the applicant submitted a Local Government Notice Form completed by the Assistant Zoning Officer for the Village which stated that the proposed hotel is an allowed use and is not prohibited by any local law or ordinance in the Village, and had received required permit and variance approvals from the Village.
2. The Village adopted a Comprehensive Plan in 2004 which recognizes the important role that tourism plays in the Central Business District. The project is located on the edge of the Central Business District and the Northern Gateway District. The Plan includes Design Guidelines which provide that new construction in the Central Business District should be at least two stories in height, and no greater than three stories in height. However, the Village amended its Zoning Code in 2013 to create the "Canada Street Maximum Height Overlay District", Local Law No 4, 2013.

This district allows for buildings up to a maximum of 72 feet in height, 6 stories.

The project site is located in the Village of Lake George "Commercial Mixed Use" zoning district within the "Canada Street Maximum Height Overlay District". As such, the project is consistent with the uses allowed in the district and does not need a height variance from the Village.

3. a. The project has been reviewed and conditionally approved by the Village Planning and Zoning Boards. On January 8, 2014, the Zoning Board approved a variance from the 10 foot setback from a public right of way for 2nd and 3rd floor outdoor areas to be used for consumption of food and beverages, allowing the balconies of proposed banquet and conference facilities to extend over the sidewalk in line with the balconies of hotel rooms. The Village Planning Board approved the applicant's Special Use Permit on February 10, 2014, and approved the site plan for a 120 room hotel, and conference center with a restaurant and first floor retail shops, on February 19, 2014. In its approval, the Village Planning Board found that the Project is compatible with the principles of the Zoning District and the Village's Comprehensive Plan.
- b. The Village Planning Board's site plan approval required the applicant to undertake a traffic light timing study to determine if any municipal adjustments to the timing of traffic lights are needed to facilitate traffic flow on Canada Street and to avoid traffic backup on Amherst Street. Further conditions of the local approval require that vehicles exiting from the parking area on Parrott Street turns will be restricted to left turns only during school hours.
- c. A Certificate of Compliance issued by the Village zoning office is required to certify the project is built in compliance with the approvals granted by the Planning Board and Zoning Board of Appeals. A demolition permit and a building permit will also have to be obtained prior to demolition of existing buildings and construction of the new hotel.

4. Based on the Local Government Notice Form submitted by the Village and the approvals from the Village's zoning and planning boards, the project complies with all provisions of the Village Zoning Code, and with such other ordinances and regulations of the approved Village Land Use Plan, as required by Lake George Village Code § 220-73.

Background/Prior History

5. The project site is comprised of adjoining tax lots which the current landowner/applicant herein is merging to form the 2.09± acre project site. The project site has been improved by commercial structures since the May 22, 1973 enactment date of the Adirondack Park Land Use and Development Plan. The existing commercial buildings will be demolished, removed from the site and disposed of in a NYS Department of Environmental Conservation authorized landfill.

Existing Environmental Setting

6. The project site is 2.09±-acres of nonshoreline property with frontage on both Canada Street and Ottawa Street in the Village of Lake George. The property is classified as Hamlet land use area on the Adirondack Park Land Use and Development Plan Map. There are no wetlands on the project site. The area surrounding the project site is intensely developed with commercial, public, residential and recreational uses, including restaurants, hotels, retail shops, municipal buildings, a public school, a public park and beach area and single family dwellings. The project is located approximately 600± feet from the shoreline of Lake George.

Local Government Comment

7. As described herein, the project underwent review and received conditional approval by the Village Zoning Board of Appeals and the Planning Board. Additionally, by letters dated March 24, and June 27, 2014, the Mayor submitted comments on behalf of the Village in support of the proposed hotel project. On June 16, 2014, following a determination that the application to the Agency was complete and under formal review, the Agency sent notice as required to the Planning Board requesting any additional advisory comments, particularly with regard to signage, traffic, wastewater and visual impacts. Following that notice, the Agency received the second letter from the Mayor, dated June 27, 2014, which detailed recent improvements at the Village wastewater treatment plant and summarized that the

proposed hotel project will have no adverse impact on the Village wastewater treatment plant. The letter also stated that the Village Board supports APA approval of the project. Further, the Village Planning Board Chairman responded to the Agency's June 16, 2014 letter on July 2, 2014, advising that the project will comply with all the provisions of the Zoning Code and with such other ordinances and regulations as shall be components of the Village Land Use Plan.

Public Notice and Comment

8. 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. A total of 65 letters were received in the response to the public notice. Of those, 46 letters oppose the project (with some opponents submitting more than one letter) and 19 letters support the project.

The letters of opposition included concerns regarding: the hotel structure being too large and out of character with Lake George Village; visual impacts of the large structure; overload to the waste water treatment plant; storm water issues, including runoff into Lake George; effects on water quality; traffic congestion; proximity to the public school; parking issues; and the need for a public meeting to voice concerns about the project.

The letters of support included benefits such as: improvement to the Village; a boost to the local economy; increase in tourism; need for change in the Village; creation of jobs; increase to the local economic tax base, lowering residential taxes and; catalyst for new investment and improvements to existing businesses, and growth in the Hamlet area. One of the support letters was submitted by the Mayor on behalf of the Village of Lake George. Another of the support letters was submitted by the project sponsor's representative and responded to some of the concerns cited in the opposition letters.

Other Regulatory Permits and Approvals

9. The new hotel will require temporary residence and food service permits from the New York State Department of Health (DOH) prior to operation, and a Stormwater permit will be required from New York State Department of Environmental Conservation. A permit from the New York State Department of Transportation (DOT) may be required for improvements to the existing access drive onto Canada Street (NYS Route 9).

PROJECT IMPACTS

Aesthetics

10. Requiring that vegetation and landscaping be maintained as shown on the plan referenced herein, limiting the maximum size and height of the structure to those shown on the project plans and requiring the building to be constructed in accordance with the architectural style and earth-tone colors depicted on the elevation plans and visual simulations, and outdoor lighting to be shielded and angled downward will all help to minimize visual impacts. Nevertheless, the new hotel as authorized herein will be visible from public vantage points and adjacent land uses, and the new structure will look different than the commercial structures it is replacing. Visual simulations were prepared by the applicant to show the anticipated views of the proposed development from near-by and distant vantage points. The most significant visual impact will be the view from on the waters of Lake George north of the Village looking southwest towards the Village. From this vantage point, the new hotel will be more visible than the structures it is replacing. However, the views of the hotel will primarily be within the context of the surrounding developed area and Village of Lake George and there is significant shoreline development in the foreground view of the new structure. As such, the structure authorized herein will not result in significant new visual impacts uncharacteristic of the surrounding area.

Water Resources

11. Proper implementation of the stormwater management and erosion control plans and reports as referenced herein will protect water resources from the potential adverse impacts of stormwater runoff and erosion from the proposed project. Connection to the municipal wastewater collection and treatment system will protect water resources.

As shown on the official wetlands maps for Warren County, there is a linear wetland which crosses the adjacent property to the north (improved by the high school). Again, proper implementation of the stormwater management and erosion control plans and reports as referenced herein will avoid any impacts to the nearby wetland.

Wastewater Treatment Plant

12. Agency staff coordinated review with Regional New York State Department of Environmental Conservation staff. As described in the application materials and confirmed in correspondence from the Village Water and Sewer Engineer, the hotel project will result in a total maximum daily design flow (assuming all facilities at 100% operation) of 23,680 gpd. The buildings being removed from the project site generated a flow of approximately 7,800 gpd. Thus the net increase in flow from the proposed project to the Village Wastewater Treatment Plant will be 15,880 gpd. This represents 6.35% of the current 250,000 gpd excess capacity of the treatment plant as determined by the Village Water and Sewer Engineer. The excess hydraulic capacity of 250,000 gallons per day is based upon a 2012 study conducted by the Village and accounts for the infiltration beds which are the limiting component of the plant.

Separate from and unrelated to the project, the Village of Lake George has received \$2.2 million in funding to improve the efficiency of the municipal wastewater treatment plant. On-going improvements include a new septage receiving system to be utilized by septic haulers, rehabilitation of the sand infiltration beds and replacement of valves, piping and secondary pump stations. NYSDEC is providing oversight of the on-going improvements. On-going improvements are expected to increase the hydraulic capacity and treatment efficiency of the plant.

Operational Issues

13. The proposed hotel will operate full-time year-round, with highest occupancy anticipated during Lake George's busiest tourist and event times. The project has been approved by the Lake George Fire Department as adequate for emergency vehicle access. Trash dumpsters will be contained in a fenced and gated area.

Compatability

14. The project site is located in the Lake George Commercial Mixed Use zone and is consistent with uses allowed in this zone. The hotel replaces existing commercial use structures and is re-development of an existing commercial area. The area surrounding the project site is intensely developed with commercial, public, residential and recreational uses. The project is also located in a Hamlet land use area. Pursuant to APA Act § 805(3)(c)(2), Hamlet areas are intended to serve as the service and growth centers of the Adirondack Park, and to accommodate a large

portion of the necessary and natural expansion of the Park's commercial activities. The proposed project would further the purposes, policies and objectives of Hamlet areas.

Parking

15. The proposed hotel parking lot includes 132 spaces which meets local code. The proposed hotel parking lot has been used as a public parking lot for the existing and nearby businesses. The Village proposes to develop other parking lots in the vicinity, which should mitigate the burden on nearby businesses.

Traffic

16. The application materials indicate that at peak times 260-355 vehicles could be entering/exiting the hotel parking lot. To help mitigate traffic problems there are three separate access drives into the hotel parking lot; one from Canada Street, one from Ottawa Street and one from Amherst Street. The Project Sponsor has agreed to post signs on the project site restricting right turns onto Ottawa Street towards the high school during school hours. Further, Warren County is requiring that a signal light timing study be conducted on Canada Street, and the Project Sponsor will conduct such a study to determine if municipal adjustments to traffic light timing are necessary to facilitate traffic flow.

Economic/Fiscal Factors

17. a. On a year-round basis, the Project Sponsor projects to employ 40 full-time workers and 20 part-time workers at the hotel portion of the project and ten full-time and five part-time employees at the restaurant. Additionally, the Project Sponsor expects to employ 20 full-time and ten part-time seasonal employees at the hotel and five full-time and five part-time seasonal employees at the restaurant. The average annual wage for an employee in the Accommodations and Food Services Industry in Warren County in 2012 was \$18,901.
- b. The Project Sponsor projects to employ 20 full-time workers during the 72-week construction period. The Average annual wage for an employee in the Construction Industry in Warren County in 2012 was \$44,997.

- c. The Project Sponsor anticipates an investment of over \$15,000,000 in construction costs and \$5,000,000 in site acquisition costs. Current assessments for the property to be redeveloped total \$3,384,400. Local property taxes have not been estimated for the project.
- d. The project is located in Lake George's central business district and will help to energize the walkable hamlet center and induce spending at nearby businesses.
- e. The Project Sponsor projects yearly patronage of the hotel to be 109,500 people. A 2006 study on tourism expenditures in the Adirondack Region commissioned by SUNY Potsdam's Northern New York Travel and Tourism Research Center and conducted by the firm Davidson-Peterson Associates estimates that the average per-person, per-day expenditure of a Northern New York visitor staying at a hotel, motel or resort was \$139.16. Using this number and the Project Sponsor's yearly patronage projections, yearly local spending from hotel guests would be about \$15,238,000. However, some of these expenditures may be redirected from existing businesses, primarily hotels and restaurants in competition with the new asset.
- f. Visitation-dependent economic regions rely upon new investment in facilities and attractions to drive return visitation as well as to attract new audiences. The proposed project will provide the community with a full service hotel and conference center that will diversify the existing offerings in the region as well as expand visitation-related economic benefits to the region's shoulder seasons.

Historic Sites or Structures

- 18. The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) issued a letter dated May 16, 2014 which determined the hotel project as authorized herein would have "No Impact" upon cultural resources in or eligible for inclusion in the National Registers of Historic Places. As such, 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 §14.09 of the New York State Historic Preservation Act of 1980.

