


THIS PERMIT RENEWS AND SUPERCEDES PERMIT 2005-233 ISSUED 10/27/06

AND PERMIT 2005-233R ISSUED 8/19/10

THIS IS A TWO-SIDED DOCUMENT

NOT APPROVED BY AGENCY - SEPTEMBER 24, 2014

 <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p>	<p>APA Project Permit 2005-223R2</p>
<p>In the Matter of the Application of</p> <p>KATHLEEN REGO and GARY P. REGO</p> <p>for a permit pursuant to §809 of the Adirondack Park Agency Act and 9 NYCRR Part 578</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:</p> <ol style="list-style-type: none">1. Kathleen Rego2. Gary P. Rego

SUMMARY AND AUTHORIZATION

Gary P. Rego and Kathleen Rego are granted a renewed permit, on conditions, for a six-lot subdivision in an area classified Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Dannemora, Clinton County.

This project may not be undertaken, and no transfer deed shall be recorded, until this renewed permit is recorded in the Clinton County Clerk's Office. This renewed permit shall expire unless so recorded on or before [DATE], 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 renewed permit is void if the project authorized herein is not in existence within four years from the date the permit is recorded. The Agency will consider the project authorized herein in existence when at least one of the lots has been conveyed to a separate entity and the deed has been recorded.

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 six-lot subdivision in a Rural Use land use area and involving wetlands, a Class A regional project requiring an Agency permit pursuant to §810(1)(d)(1)(b) of the Adirondack Park Agency Act, a Class B regional project requiring an Agency permit pursuant to §810(2)(c)(1) of the Adirondack Park Agency Act and a regulated activity requiring a wetlands permit pursuant to 9 NYCRR §578.2 and §578.3(n)(1)(i).

PROJECT SITE AND PROJECT DESCRIPTION

The project site is a 62.13+-acre parcel of land located on Sunset and Boomhower Roads in the Town of Dannemora, Clinton County, in an area classified Rural Use on the Adirondack Park Land Use and Development Plan Map. It is identified on Town of Dannemora Tax Map Section 182, Block 2 as Parcel 2.7. The project site is described in a deed from the County of Clinton to Gary P. Rego and Kathleen Rego dated September 12, 2001 which was recorded September 20, 2001 in the Clinton County Clerk's Office as Instrument #134979.

The project as originally proposed and authorized has not been undertaken to date. The applicant has requested that the Agency issue a renewed permit to allow the project to be undertaken and completed as originally proposed and authorized. No changes to the project are proposed.

CONDITIONS

BASED UPON THE FINDINGS BELOW AND INFORMATION CONTAINED IN THE PROJECT FILE, THE RENEWED PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The renewed 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 renewed permit is binding on the applicants, 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 and/or any subsequent owner or lessee to all contractor(s) undertaking any construction activities pursuant to the permitted 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 Permit 2005-223R2 issued [DATE] the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees." All deeds shall also include reference to the Declaration of Covenants.

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. After the construction of the six single family dwellings authorized herein, no additional principal buildings shall be allowed on any lot authorized herein unless the overall intensity guidelines of the Adirondack Park Agency Act or the Park Plan Map are amended or, pursuant to the adoption of an Agency-approved local land use program, refined so as to permit additional principal building(s).

Building Location and Size

5. This permit authorizes the construction of six single family dwellings in the locations shown on the Site Plan. The authorized single family dwellings and attached garage shall be located in the 50 foot by 100 foot footprint shown on the Site Plan. The single family dwelling shall not exceed a footprint of 3,000 square feet including all covered and uncovered attached porches, decks, exterior stairs and shall not exceed an overall footprint of 4,000 square feet if an attached garage is also constructed. No single family dwelling shall exceed 35 feet in height or have a total living space of more than 3,500 square feet without prior review or approval. The height shall be measured from the highest point on the structure, including the chimney, to the lowest point of existing grade or finished grade whichever is greater.

Accessory Uses and Structures

6. Beyond the 1,000 square foot attached or detached accessory structure authorized herein, one accessory structure (except guest cottages) is permitted without a permit amendment,

provided it is located within the limits of clearing shown on the Site Plan. In no case shall the accessory structure exceed 200 square feet in size or 15 feet in height.

Building Color

7. All exterior building materials, including roof, siding and trim, used to surface the exterior of the dwelling authorized herein and all accessory use structures on the project site shall be of a color which blends with the existing vegetation. The Agency will, upon request, advise whether any particular proposal complies with this condition.

Outdoor Lighting

8. Any new free-standing and building mounted outdoor lights shall employ full cut-off fixtures that 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 Upper Chateaugay Lake, Boomhower or Sunset Roads or adjoining properties.

Erosion & Sediment Control

9. Prior to undertaking any earthwork, straw bale dikes and silt fence shall be properly installed as described and in the locations shown on the Site Plan map. Silt fences shall be embedded into the earth a minimum of four inches and shall be maintained throughout construction to ensure that the fabric and supports are intact and to remove accumulated sediments so as to maintain the fence in a functional manner. Additional silt fencing shall be installed as needed to prevent erosion and sedimentation. These devices shall not be removed until after all disturbed soils are revegetated or otherwise stabilized.

Wetlands

10. Beyond that authorized herein, 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, clear cutting more than three acres within, 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.

Wastewater Treatment

11. The proposed on-site wastewater treatment systems shall be constructed in complete conformity with the locations and designs shown on the project plans referenced herein. The construction of the systems on Lots 7A, 7C, 7E, and 7G 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 on each of these four lots was built in compliance with the approved plans.

Visual/Open Space Protection

12. Within 100 feet of the edge of pavement of Sunset and Boomhower Roads, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed except for an area not to exceed 25 feet in width on each approved lot for driveway construction and utility installations. This condition shall not be deemed to prevent the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.

Additionally, prior to undertaking any vegetative cutting between the limits of clearing shown on the subdivision map and Boomhower and Sunset Roads, a detailed vegetative cutting plan shall be submitted to the Agency for prior review and approval.

The vegetative cutting plan approval may be issued by the Agency in the form of a letter of compliance or new or amended permit, as determined by the Agency.

This condition shall not be deemed to prevent the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.

13. Regarding Lots 7C and 7D: upon completion of the driveway and utility installation and upon completion of successful hydroseeding and site stabilization, that area located within 100 feet of Sunset Road shall be revegetated naturally so as to comply with Condition 12 above.

Agency Review of Future Subdivision and Development

14. There shall be no further subdivision or land use and development without a new or amended permit. However, accessory structures except guest cottages are permitted without a permit amendment, provided they are located within the building envelope and as conditioned above. Any accessory structure shall be customarily incidental and subordinate to the principal land use or development that customarily accompanies or is associated with such principal land use or development.

Legal Interests of Others

15. 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.

FINDINGS OF FACT

Renewal Request

1. Agency Permit 2005-223 authorized a six-lot subdivision and construction of six single family dwellings, each to be served with an individual on-site water supply and wastewater treatment system. The permit was issued on October 27, 2006 and recorded on November 6, 2006 in the Clinton County Clerk's Office as Instrument 2006-200130.
2. Permit 2005-233R was issued on August 19, 2010 and was recorded in the Clinton County Clerk's Office on September 17, 2010 as Instrument No. 2010-235023.
3. By letter dated August 26, 2014, the permittees requested a second renewal of Adirondack Park Agency Permit 2005-223.

Background/Prior History

4. The project site was the subject of previous Agency involvement:
 - Agency Permit 86-198 which was issued on October 3, 1986 (recorded May 11, 1986 in Clinton County Book of Miscellaneous Documents, Liber 5, page 127) authorized the creation of the project site by subdivision and allocated seven principal building rights to it as part of a fifteen lot subdivision of 963 acres. The project site is Lot 7 of that subdivision.

- Agency enforcement file E2003-164 determined that that the alleged forest clear-cutting was not a violation of the Adirondack Park Agency Act and did not require an Agency permit.

Existing Environmental Setting

5. The project site is located on the southerly side of Sunset Road and easterly of Boomhower Road. The primary land use in the vicinity of the project site is forestry and seasonal camps and year-round residences. The project site is also directly adjacent to shoreline residences along Upper Chateaugay Lake. The shoreline properties are generally less than 0.5 acres in size and are improved with circa 1950s seasonal and year-round shoreline dwellings.
6. Slopes on the project site are generally in the 3 to less than 25 percent range. Land use and development authorized herein is located on slopes not exceeding 15%. Soils on the project site are in the Success and the Hermon-Adirondack Complex series as described on the Clinton County Soils Survey map. These soils are generally very bouldery with a varying seasonal high groundwater from 0.5 to greater than 6 feet below the surface as was determined by inspection of deep hole test pits. In the vicinity of the on-site wastewater treatment systems authorized herein, the seasonal high groundwater varies between 25 and 72 inches below the surface.
7. The project site consists of recently forested northern deciduous forest with trees ranging between 35 and 50 feet tall. There are no Natural Heritage sites or listed sensitive biological sites located on or adjacent to the project site.
8. There is an intermittent stream and several drainages located on the project site. The intermittent stream is located on Lots 7A and 7C while there is a separate drainage area located on Lots 7E and 7F. There is a deciduous swamp wetland located along the southerly property boundary located approximately as shown as the "beaver pond" on the Site Plan. Wetlands described herein are intended to alert landowners and others that wetlands are present on the project site. However, this may not identify all wetlands on or adjacent to the project site.

Public Notice and Comment

9. During review of 2005-223, 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. The Agency received nearly two dozen letters from nearby landowners and the Adirondack Council expressing concern about the project's potential impacts to wetlands, open space, aesthetics, water quality and fragmentation of habitat. The Agency also received comments stating that the subdivision map was incorrect since it did not show an additional stream believed to be located on the project site.

Other Regulatory Permits and Approvals

10. The Agency has been advised by the Town of Dannemora in a completed Local Government Notice Form that no municipal approval is required for the project.

PROJECT IMPACTS

Wetlands and Water Resources

11. Provided the project is undertaken as authorized herein there will be no loss of wetland acreage, function or benefits derived therefrom.
12. Installation and maintenance of the on-site wastewater treatment system in accordance with applicable New York State Department of Health and Agency standards, restrictions and guidelines will adequately protect groundwater quality. Furthermore, installation of sediment, erosion and stormwater control measures as authorized herein prior to any site disturbance will protect ground and surface water quality.

Open Space/Aesthetics

13. The limits of clearing authorized herein will provide limited leaf-off views of Upper Chateaugay Lake from the building sites authorized herein. Retention of existing vegetation within 100 feet of the edge of Boomhower and Sunset Roads, requiring the Agency to review and approve a vegetative cutting plan for additional clearing between the building sites and Upper Chateaugay Lake, and limiting the size and height of the single family dwellings and any accessory structures will mitigate any potential undue adverse visual or aesthetic impacts the proposed single family dwelling and related development would have on the character of the area and Upper Chateaugay Lake. Requiring the proposed dwelling and any future accessory use structures on the site to be colored so that they blend with existing vegetation will partially mitigate the adverse visual impacts of new structures on the site during the leaf-off season. Also, requiring all exterior lighting to be placed and directed so as

to avoid a glare onto Sunset and Boomhower Roads and Upper Chateaugay Lake will mitigate any undue adverse visual nighttime impacts.

14. The building sites authorized herein are located between 100 and 500 feet from Sunset and Boomhower Roads. As a result, well over one half of the project site will remain undeveloped forestland.

Historic Sites or Structures

15. The project site does not include any areas identified on the New York State Archeological Sensitivity Map. 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 Part 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval as set forth in §809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574; §24-0801(2) of the NYS Freshwater Wetlands Act (ECL, Article 24, Title 8) and 9 NYCRR Section 578.10. The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

