#### THIS IS A TWO-SIDED DOCUMENT



P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov APA Permit **2022-0088** 

Date Issued: March 29, 2023

In the Matter of the Application of

# ABANAKEE ISLANDS LLC Permittee

for a permit pursuant to § 809 of the Adirondack Park Agency Act and 9 NYCRR Part 578 To the County Clerk: Please index this permit in the grantor index under the following names:

1. Abanakee Islands LLC

## **SUMMARY AND AUTHORIZATION**

This permit authorizes a seven-lot subdivision involving wetlands in an area classified Moderate Intensity Use on the Adirondack Park Land Use and Development Plan Map in the Town of Indian Lake, Hamilton County. This project was originally authorized by Agency Permit 2013-0212, issued June 19, 2014, but expired in 2018. Upgrades to the access road on the site have been undertaken pursuant to Permit 2013-0212. As that authorization has since expired, this permit also authorizes those upgrades after-the-fact.

This authorization shall expire unless recorded in the Hamilton County Clerk's Office within 60 days of issuance of a signed and notarized permit. The signed and notarized permit shall be recorded in the names of all persons listed above and in the names of all owners of record of any portion of the project site on the recordation date.

The project shall not be undertaken or continued unless the project authorized herein is in existence within five years of the date the permit is recorded in the County Clerk's Office. The Agency will consider the project in existence when the permit has been recorded.

The project shall be undertaken in compliance with all conditions stated herein. Failure to comply with this permit is a violation and may subject the permittee, successors, and assigns to civil penalties and other legal proceedings.

This permit does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to comply with all applicable laws and regulations or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional, or local.

## **PROJECT SITE**

The project site is comprised of 25.5± acres of land located on Chamberlain Road (County Route 18) in the Town of Indian Lake, Hamilton County, in an area classified Moderate Intensity Use on the Adirondack Park Land Use and Development Plan Map. The site is identified as Tax Map Section 65.008, Block 1, Parcels 13.113, 13.114, 13.115, 13.116, 13.117, 13.118, and 13.119; and is described in a deed from John E. Kennedy, Jr., Adele C. Kennedy, Dennis Delong, and Daniel Shaffer a/k/a Daniel Shafer to Abanakee Islands LLC, dated February 3, 2022, and recorded February 14, 2022 in the Hamilton County Clerk's Office under Instrument Number 2022-291.

The project site contains shoreline on Lake Abanakee and contains evergreen forested wetlands with a value rating of "3", as well as wetlands associated with the shoreline of Lake Abanakee as depicted on the site plan. Additional wetlands not described herein or depicted on the Site Plan may be located on or adjacent to the project site.

The project site was created as "Lot 1-C" in a two-lot subdivision as authorized by Agency Permit 2008-0292 and is currently improved by the upgraded road authorized by expired Agency Permit 2013-0212.

#### PROJECT DESCRIPTION

The project as conditionally approved herein involves a seven-lot subdivision of 25.5± acres of land designated Moderate Intensity Use, creating six residential building lots (Lots 1 through 6) ranging in size from 1.14± to 1.73± acres, with the remaining 16.5± acres of the project site constituting a vacant homeowner association (HOA)-owned lot (Lot 7). Lots 1 through 6 are each to be improved by a single family dwelling, detached garage, individual on-site wastewater treatment system, and individual water supply well. Docks are to be constructed on Lots 1, 2, and 3. Lot 7 will contain the subdivision road and a common dock. The HOA will be responsible for maintaining the subdivision road and common dock.

The subdivision lot configuration and road improvements as authorized herein were originally approved by Agency Permit 2013-0212. Permit 2013-0212 expired in 2018, as no subdivision lot had been conveyed.

The road improvements undertaken as authorized by Agency Permit 2013-0212, have resulted in a total of 4,286± square feet of disturbance to wetlands. To compensate for this loss, 6,500± square feet of new wetlands will be created on the vacant HOA-owned lot, as depicted on the Site Plan and described in the Wetland Mitigation Plan, referenced below.

The project is shown on the following plans and reports [Project Plans]:

 A 12-sheet set of plans titled "Project: Abanakee Islands Subdivision – Formerly (Delong Subdivision)", prepared by Abanakee Islands LLC, and last dated December 30, 2022 [Site Plan]; and  A nine-page report titled "Wetland Creation Plan, APA Project No. 2022-0088", prepared by Gilbert VanGuilder Land Surveyor, PLLC, and last dated September 8, 2022 [Wetland Mitigation Plan].

Reduced-scale copies of sheets 1, 3, and 5 of the Site Plan are attached as a part of this permit for reference.

## **AGENCY JURISDICTION**

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act and Adirondack Park Agency regulations at 9 NYCRR Part 578, a permit is required from the Adirondack Park Agency prior to any subdivision involving wetlands in the Adirondack Park.

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act and Adirondack Park Agency regulations at 9 NYCRR Part 578, a permit is required from the Adirondack Park Agency prior to any deposit of fill in or excavation of a wetland in the Adirondack Park.

## **CONDITIONS**

## THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. The project shall not be undertaken until this permit has been recorded in the Hamilton County Clerk's Office.
- 2. This permit is binding on the permittee, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project. Copies of this permit and Project Plans shall be furnished by the permittee to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee and/or any subsequent owner or lessee to all persons undertaking any development activities authorized herein.
- 3. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
- 4. This permit supersedes Permit 2008-0292 in relation to the project site. The terms and conditions of Permit 2008-0292 shall no longer apply to the project site.
- 5. 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 2022-0088, issued March 29, 2023, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
- 6. Subject to the conditions stated herein, this permit authorizes a seven-lot subdivision as depicted on the Site Plan. Any subdivision not depicted on the Site Plan shall require a new or amended permit.

- 7. Any deed of conveyance for Lot 7 as depicted on the Site Plan shall contain an easement providing access to Lots 1 through 6 and the neighboring tax map parcel 65.008-1-13.111 over the subdivision road shown and described on the Site Plan.
- 8. Any deed of conveyance for Lot 1 as depicted on the Site Plan shall contain an easement providing access to Lot 2 over the common driveway shown and described on the Site Plan.
- 9. Subject to the conditions stated herein, this permit authorizes the construction of one single family dwelling and detached garage on Lots 1 through 6 in the locations, footprints, and heights shown and as described on the Site Plan. Any change to the location or dimensions of any authorized structure shall require prior written Agency authorization.
- 10. The undertaking of any new land use or development not authorized herein on Lot 7 shall require prior written Agency authorization.
- 11. The construction of any additional dwelling or other principal building on Lots 1 through 6 shall require prior written Agency authorization. Except for the docks authorized herein, the construction of any accessory structure on Lots 1 through 6 outside the limits of clearing as shown on the site plan shall require prior written Agency authorization.
- 12. Other than the docks authorized herein, no structures greater than 100 square feet in size shall be constructed within 75 feet, measured horizontally, of the mean high water mark of Lake Abanakee.
- 13. Construction of any guest cottage on the project site shall require prior written Agency authorization.
- 14. All exterior building materials, including roof, siding and trim, of the structures authorized herein shall be a dark shade of green, grey, or brown.
- 15. Any new free-standing or building-mounted outdoor lights on the project site shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward Lake Abanakee, the subdivision road, Chamberlain Road, or adjoining property.
- 16. Any on-site wastewater treatment system(s) on Lots 1 through 6 installed within five years of the date of issuance of this permit shall be constructed in conformance with the location and design shown on the Site Plan. Construction of the system shall be supervised by a New York State design professional (licensed engineer or registered architect). Within 30 days of complete system installation and prior to its utilization, the design professional shall provide written certification to the Agency that the system was built in compliance with the approved plans.

No on-site wastewater treatment system shall be installed on the project site more than five years after the date of issuance of this permit except pursuant to written authorization from the Agency.

- 17. Installation of any on-site wastewater treatment system(s) on Lot 7 shall require prior written Agency authorization.
- 18. This permit authorizes the construction of one dock on Lots 1, 2, 3, and 7 as depicted and described on the Site Plan. Dredging for dock installation or access on the project site shall require prior written Agency authorization.
- 19. There shall be no docks, boathouses or other shoreline access structure on Lot 4.
- 20. Prior to undertaking construction of any boathouse on the project site, written authorization of plans for the boathouse, including all attached docks, walkways, and other structures, shall be obtained from the Agency.
- 21. This permit authorizes the establishment of a footpath between the approved limits of clearing and authorized docks on Lots 1, 2, 3, and 7 as shown on the Site Plan. This footpath shall be no greater than 6 feet in width and shall have a surface comprised of natural vegetation, grass, natural or synthetic mulch, pea stone, or permeable pavers.
- 22. Outside of the limits of clearing shown on the Site Plan, no trees, shrubs or other woody-stemmed vegetation may be cut, trimmed, pruned or otherwise removed or disturbed on the project site without prior written Agency authorization, except for 1) the replacement of an on-site wastewater treatment system absorption field as depicted the Site Plan 2) the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.
- 23. Stormwater management and erosion and sediment control measures shall be implemented as depicted and described in the Site Plan. The soil stockpile area south of the wetland creation area shall be seeded and allowed to revegetate as soon as soil is removed from the area.
- 24. When brought from off-site, all equipment, including but not limited to trucks, excavators, tractors, etc., and hand excavation tools such as shovels, rakes, and picks, to be used on the project site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites. All construction equipment and vehicles operating in areas that may contain existing invasive species shall be thoroughly cleaned prior to moving to other areas.
- 25. The wetland creation area shall be constructed as depicted and described in the Project Plans within three weeks of commencement of remaining driveway construction. The wetland creation area shall be constructed by October 1, 2023 and prior to the conveyance of any lot authorized herein.

- A wetland monitoring report shall be submitted to the Agency within 90 days of construction of the wetland creation area as described in the Wetland Creation Plan. Wetland monitoring reports shall be submitted to the Agency after the wetland creation area has been in existence for one year, two years and five years, by November 30<sup>th</sup> of each of those years. The Agency may require longer or shorter monitoring periods or additional monitoring reports at its discretion, depending on the results of the monitoring reports received.
- 27. The undertaking of any activity involving wetlands not authorized herein shall require a new or amended permit.

## **CONCLUSIONS OF LAW**

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act, the Freshwater Wetlands Act and 9 NYCRR Part 578, and 9 NYCRR Part 574. The Agency hereby finds that the subdivision authorized as conditioned herein:

- a. will meet all of the pertinent requirements and conditions of the approved local land use program of the Town of Indian Lake;
- b. will 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;
- c. will secure the natural benefits of wetlands associated with the project, consistent with the general welfare and beneficial economic, social, and agricultural development of the state; and
- d. will result in the minimum possible degradation or destruction of any part of the wetland or its associated values, is the only alternative which reasonably can accomplish the applicant's objectives, and will, weighing the benefits of the activity against its cost and the wetland values lost, provide a net social and/or economic gain to the community.

PERMIT issued this 39 day of March, 2023.

# ADIRONDACK PARK AGENCY

John M. Burth

Environmental Program Specialist 3 (EPS3)

STATE OF NEW YORK COUNTY OF ESSEX

On the 29 day of March in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared John M. Burth, 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.

Stephanie L Petith
Notary Public. State of New York
Reg: No 01PE6279890
Qualified in Franklin County
Commission Expires April 15. 20

Notary Public





