

**THIS PERMIT IS A RE-ISSUANCE AND REPLACES UN-RECORDED PERMIT 2016-0050
ISSUED ON FEBRUARY 16, 2017. THIS IS A TWO-SIDED DOCUMENT.**

 <p>Adirondack Park Agency</p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 Fax: (518) 891-3938 www.apa.ny.gov</p>	<p>APA Permit and Order 2016-0050</p>
<p>In the Matter of the Application of</p> <p>SARANAC LAKE RESORT, LLC</p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act and a variance pursuant to Executive Law § 806</p>	<p>Date Issued: February 23, 2017</p> <p>To the County Clerk: This Permit and Order must be recorded on or before April 24, 2017. Please index this Permit and Order in the grantor index under the following names:</p> <ol style="list-style-type: none">1. Saranac Lake Resort, LLC2. Kimberly Walasky3. Mueller Capital Partners, Inc.4. David Manning

SUMMARY AND AUTHORIZATION

Saranac Lake Resort, LLC (applicant) is granted a Permit, as conditioned herein, authorizing the construction of a new hotel structure and associated development, and an Order, as conditioned herein, authorizing a variance from the applicable 50-foot shoreline structure setback required by Section 806(1)(a)(2) of the Executive Law (Adirondack Park Agency Act or APA Act), to allow for the construction of associated shoreline structures in an area classified Hamlet by the Official Adirondack Park Land Use and Development Plan Map in the Town of North Elba, Essex County.

Nothing contained in this Permit and Order 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.

The 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 hotel foundation is constructed in the footprint shown on the plan sheets described herein. The variance granted herein, however, runs with the land and will not expire.

This Permit and Order 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 and Order 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.

APPLICABLE LAWS

The project requires an Agency permit pursuant to §§ 809(2)(a) and 810(1)(a)(4) of the Adirondack Park Agency Act [Executive Law, Article 27], as a structure in excess of 40 feet in height on Hamlet lands. The project is a regulated activity requiring a wetlands permit pursuant to §§ 809(2)(a) and 810(1)(a)(1) of the Adirondack Park Agency Act and §§ 578.2 and 578.3(n)(1)(i) of Agency regulations implementing the Freshwater Wetlands Act [Article 24 of the Environmental Conservation Law], because the installation of a dock involves wetlands.

Section 806(1)(a)(2) of the APA Act establishes a minimum shoreline setback of 50 feet from the mean high water mark of Lake Flower within a Hamlet land use area for all accessory structures and principal buildings greater than 100 square feet in size. Pursuant to § 575.4(b) of Agency regulations, individual structures that are attached to each other are considered a single structure when implementing these setback requirements. Pursuant to § 575.5(b) of Agency regulations, a variance is required for the replacement of any existing structure that results in an expansion in any direction, except minor rearward and height expansions.

The applicant proposed to construct a structure comprised of a hotel and associated development, including eight attached components that do not comply with §806(1)(a)(2) of the APA Act and Part 575 of Agency regulations, to be located approximately 2 feet from the mean high water mark of Lake Flower at the closest points. The applicant requested a variance from the structure setback requirement pursuant to § 806(3)(a) of the APA Act.

PROJECT SITE

The project and variance site (the project site) is a 4.17± acre parcel of land located on the west side of NYS Route 86 and the northeast side of Lake Flower in an area classified as Hamlet by the Adirondack Park Land Use and Development Plan Map. The site includes 748± feet of shoreline and 526± feet of road frontage on NYS Route 86. Approximately 1.2 acres of the project site are located below the mean high water mark of Lake Flower.

The site is identified on Town of North Elba Tax Map Section 32.214, Block 5, as Parcels 2, 3, and 4 and Section 32.230, Block 1 as Parcel 1, and described in the following deeds:

- Tax Map Parcel 32.214-5-4 is described in a deed from John G. Brewster and Johanna L. Brewster to Robert W. Walasky and Kimberly K. Walasky, dated May 5, 1998, and recorded May 14, 1998 in the Essex County Clerk's Office at Book 1175, Page 165. Robert Walasky passed away May 18, 2006.
- Tax Map Parcel 32.214-5-2 and Tax Map Parcel 32.214-5-3 a deed from Susan T. Martin to Mueller Capital Partners, Inc., dated December 15, 2003, and recorded December 17, 2003 in the Essex County Clerk's Office at Book 1384, Page 310.
- Tax Map Parcel 32.230-1-1 a deed from Wilhelm F. Belzner and Sylvia A. Belzner to David J. Manning and Mona Manning, dated April 26, 1990, and recorded June 1, 1990 in the Essex County Clerk's Office at Book 968, Page 175.

PROJECT AND VARIANCE PROPOSAL

The project as conditionally approved herein involves replacing existing motel structures with a new hotel containing 93 guest rooms and involving approximately 37,000 square feet of footprint, including roof overhangs and balconies. The hotel development will include: two restaurants; a bar; conference/meeting facilities; an indoor/outdoor spa; an open grassy semi-public area; and two 12 slip docks, one private and one semi-public. The height of the hotel will measure approximately 55 feet at the third floor ridgeline and approximately 66 feet at the fourth floor ridgeline, with a turret measuring approximately 69 feet at the highest point of the structure. The hotel will be connected to municipal water and sewer. A 100-car pervious-paved parking area will be located on the project site, with an additional 10 parking spaces provided off-site. A sidewalk and curbing will be installed between the project site and NYS Route 86 along the length of the entire site, with one access entrance point to the parking lot near the south end of the site. The sidewalk will also continue west along the southerly boundary of the project site to provide access to the shoreline for the public. There will be a total of approximately 1.09 acres of impervious areas on the project site.

The variance as conditionally approved herein involves the construction of a structure partially within the 50-foot shoreline setback area. The portion of the structure requiring a variance is comprised of eight attached components (referred to herein as the variance elements). The variance elements are as follows, including each element's footprint and height within the setback area:

- a 117 square foot portion of a semi-public concrete sidewalk and ramp at natural grade to access a semi-public dock and grassy seating area;
- a 3.5 foot tall by 32 foot long fence to define the boundaries of the semi-public space;
- a 903 square foot portion of a 39 foot tall restaurant with an 18 foot tall roof overhang;
- a 337 square foot paver walkway at natural grade and a 3.5 foot tall by 15 foot long guard rail attached to the walkway;
- a 235 square foot, 19.5 foot tall pergola, accessed by a 72.5 square foot paver walkway at natural grade;
- a 1,982 square foot element comprised of a 1,627 square foot hot tub and hot tub deck at natural grade with two attached 4 foot tall fire pits each 169 square feet in size, a 1.7 foot tall by 35 foot long by 6 inch width retaining wall (17.5 square feet) with a 4 foot tall fence on top on the lake side of the hot tub, and 4 foot tall by 70 foot long fencing around the remainder of the hot tub;
- 297 square feet of porches and roof overhang from the hotel, with the highest portion being 22 feet in height; and
- a 131 square foot paver walkway at natural grade to access a private dock.

The concrete sidewalk and ramp, fence, and paver walkway to the private dock will extend to 2 feet from the mean high water mark. The closest portion of the restaurant will be 33 feet from mean high water mark; the remaining paver walkways, porches, and hotel roof overhang will be approximately 40 feet from the mean high water mark; the pergola will be 8 feet from the mean high water mark; and the hot tub will be 11 feet from the mean high water mark. Vegetation will be planted along the edge of the restaurant's paver walkway, on three sides of the pergola, and

between the hot tub and the shoreline. In its application, the applicant stated that its objective in constructing these structures is to provide amenities typical to a full-service hotel, to maintain the architectural symmetry of the hotel, to prevent erosion into Lake Flower, and to comply with the requirements stated in the Planned Unit Development District established by the Village of Saranac Lake, including the provision of access to the semi-public dock and grassy seating area in compliance with the Americans with Disabilities Act.

The elements requiring a variance are either new structures or expansions of existing structures, and will involve approximately 4,073 square feet of impervious area. The total square footage of impervious area within the setback will be approximately 7,068 square feet; approximately 2,995 square feet of this area involves structures that do not require a variance, as they will replace without expanding structures that will be removed from the site. The elements that do not require a variance include: 1) a portion of the semi-public sidewalk, 2) a portion of the paver walkway and fences adjacent to the restaurant, 3) a portion of the walkway to the pergola, 4) a portion of the paver walkway near the hot tub, 5) a portion of the walkway to the private dock and the fire pit adjacent to the walkway and 6) a transformer with pad.

The project and variance are shown on 41 sheets of plans titled "Saranac Lake Resort, LLC," prepared by North Woods Engineering, and dated February 2, 2016, April 15, 2016 and November 10, 2016 [Project Plans], and a plan titled "SL Resort Site," prepared by Lighting Virginia Central, and dated June 1, 2016 [Lighting Plan]. The cover sheet, Sheets C108 and C109 were last revised January 5, 2017. Sheets 1 through 3 of the survey map were last revised December 15, 2015. Sheets C200 and C203 through C205 were last revised February 2, 2016. Sheet C212 was last revised February 15, 2016. Sheets C206 and C215 through C222 were last revised April 15, 2016. Sheet C209 was last revised May 25, 2016. Sheets C103, C106, C107, C202, C207, C208, C211 and C213 were last revised September 20, 2016. Sheets C101, C102, and C210 were last revised October 11, 2016. Sheets D100, C104, C105, C105A, C214, C223 and C224 were last revised November 10, 2016.

The project is also shown on six sheets of elevation drawings and four sheets of floor plans titled "Saranac Lake Resort, LLC," prepared by Baskerville, and dated February 2, 2016 [Elevation Plans] and November 10, 2016 [Floor Plans] respectively. A "Visual Analysis Market Study" addressing the visual impacts of the project and proposed mitigation was also prepared by Baskerville and dated April 2, 2016 [Visual Simulations].

The project is also described in a document titled "Stormwater Pollution Prevention Plan (SWPPP)," prepared by North Woods Engineering, and dated April 15, 2016, with an Addendum dated November 10, 2016 [SWPPP Plan], and a document titled "Permeable Pavement Operations and Maintenance Manual," prepared by North Woods Engineering, and dated November 10, 2016 [O&M Manual].

The project is also described in a report titled "Engineering Report Saranac Lake Resort, LLC," prepared by North Woods Engineering, and dated last revised May 25, 2016 [Engineering Report], and a report titled "Saranac Lake Resort Parking Requirements," prepared by North Woods Engineering, and dated November 10, 2016 [Off-site Parking Plan].

Reduced-scale copies of Sheet C101 (Hotel Site Plan), Sheet C103 (Hotel Landscape Plan) and Sheet C109 (Hotel Site Variance Plan) are attached as a part of this Permit and Order for reference. The original, full-scale maps and plans described in this paragraph are the official plans for the variance, with copies available upon request from Adirondack Park Agency headquarters in Ray Brook, New York.

CONDITIONS

BASED UPON THE FINDINGS ABOVE AND INFORMATION CONTAINED IN THE PROJECT FILE, THE VARIANCE AND PROJECT ARE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The project and variance shall not be undertaken until this Permit and Order has been recorded in the Essex County Clerk's Office.
2. This Permit and Order is binding on the applicant, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project, for as long as the structure remains on the site. Copies of this Permit and Order, the Project Plans, Pavement Plans and SWPPP Plan 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 persons undertaking any development activities authorized herein.
3. In addition to complying with all terms and conditions of this Permit and Order, 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. All deeds conveying all or a portion of the lands subject to this Permit and Order shall contain references to this Permit and Order as follows: "The lands conveyed are subject to Adirondack Park Agency Permit and Order 2016-0050, issued February 23, 2017, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

Development

Structure Location, Height and Size

5. This Permit and Order authorizes the construction of the hotel structure and associated development in the location shown and as depicted on the Project Plans. Any changes to the location, size, dimensions or height will require a new or amended Agency Permit and Order or prior written Agency authorization.
6. Within 60 days of obtaining a certificate of occupancy, a qualified design professional shall provide written certification to the Agency that the hotel's location, size, dimensions and height was built in compliance with the approved plans.

Structure Color

7. The hotel and associated development shall be constructed in accordance with the architectural style and colors depicted on the Elevation Plans and Visual Simulations referenced herein. Prior to the commencement of construction of the hotel, final color samples shall be submitted for prior written Agency authorization.

Outdoor Lighting

8. All lighting on the project site shall comply with the locations shown on Sheet C101 of the Project Plans and with the Lighting Plan. Any change to this lighting shall require prior written Agency authorization.

Signage

9. All signs on the project site shall comply with the Sign Plan shown on Sheet C101 and Sheet C209 of the Project Plans. Any change to this signage shall require prior written Agency authorization.

Tree Cutting/Vegetation Removal

10. Vegetation removal shall be undertaken as depicted on the Existing Hotel and Demo Plan on Sheet D100 of the Project Plans. No vegetation scheduled to remain shall be removed without prior written Agency authorization, except for the removal of dead or diseased vegetation, rotten or damaged trees, or other vegetation that presents a safety or health hazard.

Plantings

11. All trees and shrubs depicted on the Landscape Plan shown on Sheet C103 of the Project Plans shall be planted no later than the first spring or fall planting season after final grading related to the construction of the hotel on the project site. Trees and shrubs that do not survive shall be replaced annually until established in a healthy growing condition.

Parking

12. Any change to the hotel parking plan depicted in Sheets C101, C102, C103, C206, C207 and C213 of the Project Plans or to the overflow parking plan described in the Off-Site Parking Plan shall require prior written Agency authorization.

Wetlands

13. The docks shall be constructed in the locations shown and as depicted on the Project Plans. Any change to the location or any other aspects of these docks shall require prior written Agency authorization.

Project Operations

Invasive Species Control/Sanitizing Equipment

14. 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.

Reports

15. At the request of the Agency, the applicant or the applicant's successor shall report in writing the status of the project, including details of compliance with any terms and conditions of this Permit and Order.

Infrastructure

Water and Wastewater

16. All water and wastewater treatment infrastructure on the project site shall be connected to and served by the municipal water and wastewater treatment system.

Stormwater Management/Erosion Control

17. The project shall be undertaken in compliance with the SWPPP and the Project Plans.

Permeable Pavement

18. The parking lot permeable pavement shall be maintained in accordance with the O&M Manual.

FINDINGS OF FACT

Project Site

1. By correspondence on February 22, 2017, it was noted that several of the dates on plans sheets were not correctly stated in the Project and Variance Proposal. The corrections have been made and this permit replaces un-recorded Permit 2016-0050 issued on February 16, 2017.
2. The project site is currently under contract for purchase from three separate landowners. Each of the three properties that comprise the project site is improved with a pre-1973 motel and associated development (The Lakeside Motel, the Adirondack Motel and the Lake Flower Inn). The Lakeside Motel is a one-story motel, except for a portion that contains two stories, and has a footprint of approximately 9,200 square feet.

The Adirondack Motel is a one-story motel, except for a portion that contains two stories, and has a footprint of approximately 5,600 square feet. The Lake Flower Inn is a one-story motel, and has a footprint of approximately 7,212 square feet. There is also a 900 square foot, two-story single family dwelling located on the Adirondack Motel property. The combined footprint of existing impervious areas on the project site is approximately 1.28 acres.

3. A portion of each of the existing motel buildings is located within 50 feet of the mean high water mark of Lake Flower. In addition, there are two pools, fences, stairways, sidewalks, a portion of a gazebo, a shed, and a mechanical building located on the project site within 50 feet of the mean high water mark. The combined footprint of impervious area of the portions of the motels and other structures currently located within 50 feet of the mean high water mark is approximately 7,100 square feet. All of these existing structures will be removed from the site. There are also existing docks on each property that will be removed.
4. In addition to the structures noted above, there are existing retaining walls that will remain along approximately 500 feet of the shoreline of the project site.
5. The project site contains 526± feet of frontage on NYS Route 86, and there are currently four access points from the road. There is no sidewalk currently located along NYS Route 86 in front of the project site. A sidewalk and curbing will be installed between the project site and NYS Route 86 along the length of the entire site.
6. The width of the property between Lake Flower and NYS Route 86 varies from 200 feet to 280 feet. The project site includes 748± feet of shoreline on Lake Flower.

Wetlands

7. Wetlands on the project site are fringe shrub, emergent and submerged wetlands with a value rating of "2." The two authorized docks are attached to shore at locations where there is no fringe wetland and no emergent vegetation. The northeast dock complex will be above submerged, rooted aquatic vegetation. Wetlands will be impacted in this location. The southwest dock complex will not be in wetlands.

Five existing docks, which will be removed, are mostly located in areas of emergent aquatic vegetation. Wetland impacts will be reduced by their removal and there will be no overall loss of wetland value or function.

Vegetation

8. Existing vegetation on the project site consists of cedar hedges between the motels and along the northern shoreline, as well as additional individual and clump trees and shrubs located throughout. There are approximately 185 existing trees in excess of 6 inches in diameter at breast height (DBH) on the project site, 179 of which are located within 35 feet of the mean high water mark of Lake Flower. The cedar hedge along the northern

shoreline of the site contains 134 tree stems 6 inch DBH or greater, all located within 35 feet of Lake Flower. 160 of the existing 179 trees within 35 feet of Lake Flower will be retained; the six trees located more than 35 feet from the lake will be removed. The cedar hedge between the motels will also be removed. 195 trees, 84 shrubs, and 335 perennial plants will be planted on the project site as part of the landscaping plan.

Traffic

9. Section C of the Engineering Report prepared by the applicant included a Traffic Impact Study. The Traffic Impact Study concludes that changes to NYS Route 86 are not warranted as a result of the project and therefore no changes are required. The Traffic Impact Study states that an increase of 34 vehicles per hour over existing conditions is expected as a result of the project (61 vehicles per hour proposed/27 vehicles per hour existing). Pursuant to NYSDOT guidance, generally increases less than 100 vehicles per hour do not warrant a complete traffic analysis. The projected increase of 34 vehicles per hour did not warrant additional traffic analysis.

In consultation with NYSDOT, traffic mitigation measures, such as a traffic light or turning lane, were not deemed necessary for the project.

NYSDOT traffic accident history for the area indicates that the accident rate is 2.3 accidents per million vehicle miles. The statewide average for a two-lane highway is 2.81 accidents per million vehicle miles. The intersection of Lake Flower Avenue is not a NYSDOT Priority Investigation Location, and therefore does not warrant any action by that Agency at this time.

The applicant has coordinated with the landowner to the south and received approval to remove one tree to improve sight distance at the entrance to the project site.

No comments were received from the Essex County Department of Public Works or the Village of Saranac Lake Highway Department regarding the Traffic Impact Study.

Parking

10. Section B.5 of the Engineering Report prepared by the applicant included a tabulation of parking space requirements. In addition, an Off-Site Parking Plan was prepared by the applicant.

The number of parking spaces on the project site was designed to comply with standards included in Local Law 01-2015 which established the Lake Flower Planned Unit Development District. The number of spaces is based upon the number of guest rooms and employees; number of seats in the restaurant; square footage of floor area in the conference center; and square footage of floor area in the spa. Using these standards, 100 parking spaces complies with the Local Law.

The Off-Site Parking Plan includes 10 additional off-site parking spaces.

On December 6, 2016, the Saranac Lake Planning Board issued a Notice of Decision approving the applicant's parking analysis and off-site parking plan.

There may be a need for the Village of Saranac Lake to coordinate with NYSDOT to establish "no parking" signage along Route 86 in front of the project site.

Soils

11. Soils on the project site consist of sandy fill soils and sandy glacial till soils.

Slopes

12. Slopes on the project site are generally less than 8 percent.

Historic Sites or Structures

13. By letter dated October 25, 2013, the New York State Office of Parks, Recreation and Historic Preservation determined that the project will have no impact upon the cultural resources in or eligible for inclusion in the State and National Registers of Historic Places.

Nearby Land Uses

14. The project site is located in the hamlet and Village of Saranac Lake on NYS Route 86. Nearby land uses include commercial uses, residential uses, and public uses. The shoreline immediately south of the site is developed with a commercial use, Fogarty's Marina. Further south, the land becomes too narrow for any development other than boathouses on the shoreline side of NYS Route 86. The shoreline immediately northwest of the site is developed with a municipal park and boat launch. The shoreline across Lake Flower is developed with residential uses on lots comprised of less than one acre. There are several commercial uses to the east of the project across NYS Route 86, including NBT Bank, a veterinary office, and Pendragon Theater, and numerous residential uses on lots comprised of less than one acre. North Country Community College is located off Winona Avenue approximately ¼ mile to the southeast of the project site.

Visual Analysis

15. A visual analysis of the hotel titled "Visual Analysis Market Study" was issued on April 2, 2016 by Baskerville and submitted by the applicant. It included a balloon test to identify the hotel location, height and actual areas of visibility, and photographs of the balloon test. An Agency staff member was present during the balloon test.
16. The visual analysis indicates that the hotel will not be visible from most of the southern end of Lake Flower or from any locations greater than 1/2 mile from the project site, except that a portion of the roof of the hotel will be visible from the summit of Mount Baker. Views of the hotel from the north, west, and south are back-dropped by existing topography and vegetation.

17. The Planning Board of Saranac Lake made the following findings during its site plan review of the project:
- a. The overall height of the proposed building is significantly higher than existing structures and will obstruct views from the adjacent neighborhood. However, the location of the building on the site, its massing and orientation of the largest and tallest portion towards Lake Flower will result in views of the lake that don't currently occur.
 - b. The proposed exterior and roof colors and high quality materials will blend with surrounding buildings and natural features and substantially conform to the Architectural Review Guidelines of the Village of Saranac Lake Land Use Code and help mitigate the visual impacts.
 - c. The overall architectural design of the building, including the complexity of the roof system, shifts in façade, mix of 1, 3 and 4 story elements and high degree of fenestration substantially conforms to the Architectural Review Guidelines which helps mitigate the visual impacts of the project.
 - d. On the basis of the foregoing, while some views may be impacted, the project will not have a materially adverse visual impact.

Infrastructure

Water and Wastewater

18. A letter dated April 11, 2016 from AES Northeast to the Village of Saranac Lake states that the existing sewage collection system has the capacity for the additional sewage flow required for the Saranac Lake Resort.
19. A letter signed May 20, 2016 by the Village of Saranac Lake states that the Village municipal water system and sewer system have the ability and willingness to service the Saranac Lake Resort. The municipal wastewater treatment plant has the treatment capacity to handle any additional sewage flows generated from the Saranac Lake Resort project.

Stormwater Management

20. Clearing, grading, and new impervious areas can result in erosion and sedimentation and increased stormwater runoff. The impacts associated with un-treated stormwater runoff and erosion and sedimentation include declining water quality, diminished groundwater recharge and quality, stream channel and wetland impacts, increased flooding, floodplain expansion and impacts to aquatic organisms.

The hotel redevelopment proposal includes disturbance and re-construction of existing impervious areas. There are approximately 1.28 acres of existing impervious areas on the project site. The proposal includes approximately 1.09 acres of impervious area, resulting in a net decrease of approximately 0.19 acres (8,276 square feet) of impervious area.

Redevelopment of a site provides an opportunity to reduce pollutant discharges from older

developed areas that were constructed without effective stormwater pollution controls.

The existing project site does not contain any stormwater management practices that provide water quality treatment or flow volume control. Currently, stormwater flow from impervious areas is captured and collected in storm catch basins on-site and directed to Lake Flower through direct discharge pipes or through overland flow with some infiltration into green space areas. The existing on-site storm catch basins will be removed and not replaced.

The total land disturbance associated with the project is approximately 2.55 acres. Since the land disturbance exceeds one acre, a NYSDEC Stormwater SPDES Permit is required. A SWPPP that includes post construction stormwater management practices was prepared. The primary post-construction management practice includes permeable pavement. Three rain gardens and a green roof approximately 4,655 square feet (0.11 acres) in size will also be constructed.

Permeable pavements are susceptible to sediment clogging and subject to owner neglect. Proper maintenance is critical to allowing the system to function properly.

Review of drainage within the Right-of-Way of NYS Route 86 is on-going between the applicant and NYSDOT.

Local Government Approvals

21. Local Law 01-2015 was issued on March 16, 2015, establishing the Lake Flower Planned Unit Development District (“PUDD”) and amending the Village of Saranac Lake Land Use Code within Zoning Districts B1 and B2. The PUDD establishes boundaries and standards for future development of the area encompassing the project site including height limitations, open space limitations, landscaping requirements, parking standards, lighting standards and other requirements. Section 8.2 of the PUDD establishes Open Space standards for the site, including the following:
 4. Semi-public open space shall include, at minimum, boat docks, a waterfront patio area, a walkway connecting the patio area to Lake Flower Ave. and associated landscaping and amenities...
 5. Private open space shall include, at minimum, boat docks, a private beach and an outdoor swimming pool...
 6. Semi-public open space shall be accessible to the extent practical and in conformance with applicable regulations.

22. A Notice of Decision was issued July 7, 2016 by the Village of Saranac Lake Planning Board for approval of a site plan review application subject to conditions including further review of: LEED Certification, the semi-public open space, a plan for off-site parking, architecture of the building, landscaping plan/fence, lighting, and signage. On December 6, 2016, the Planning Board issued a Notice of Decision approving the parking analysis and off-site parking plan and the Rules of Use for the semi-public open space.

23. During the review of the PUDD, the Village Board of Saranac Lake determined that the project directly advances goals and priorities from the following Village planning documents: the Village of Saranac Lake Comprehensive Plan; the Village of Saranac Lake Bicycle and Pedestrian Trail Master Plan; Saranac Lake Area Comprehensive Economic Development Strategy; Saranac Lake Waterfront Revitalization Program, and Saranac Lake Destination Master Plan.

During the Site Plan Review, the Village of Saranac Lake Planning Board reviewed areas of concern including: visual impacts; LEED certification; semi-public open spaces; landscaping; vehicular, pedestrian and bicycle traffic and circulation; lighting; signage; water quality issues; and parking and determined that the project complies with the standards and requirements of the Lake Flower PUDD and the applicable standards and requirements of the Saranac Lake Land Use Code, and approved the project with conditions.

Other Permits and Approvals

24. The proposal requires a State Pollution Discharge Elimination System (SPDES) permit from the DEC because it includes more than one acre of land disturbance. DEC has reviewed the SWPPP and provided comment.
25. A Letter of Map Revision (LOMR) was issued on June 2, 2015 revising the Flood Insurance Study Report and Flood Insurance Rate Map for the area within the Village of Saranac Lake and Lake Flower where the hotel will be located.
26. A highway work permit is required by the New York State Department of Transportation (DOT). The DOT has reviewed the proposal and provided comment.
27. A permit is required from the New York State Department of Health (DOH) for the hotel, pools (hot tubs) and restaurants. The DOH will have jurisdiction over the temporary residence, pools/spas, food service(s), and beach (if constructed) at the site. Engineered plans and a Notice of Intent Form will be required prior to construction and subsequent to APA approval. As confirmed by DOH staff to Agency staff on June 7, 2016, the fencing around the hot tub area must be at least 4 feet in height.

Economic/Fiscal Factors

28. The applicant has reported the site acquisition costs to be approximately \$2.7 million. The projected construction costs for site access, construction of buildings and associated accessory structures, parking areas and other site development will be approximately \$10 million.

The project will replace 47 motel rooms in three existing facilities and will add an additional 46 hotel rooms. The Saranac Lake Destination Master Plan (SLDMP)

recommended an increase in the quantity and quality of guest rooms in Saranac Lake. The Saranac Lake Area Comprehensive Development Strategy also called for additions to the number of guest rooms in Saranac Lake. The SLDMP also recommended the creation of conference center space.

A Proposed Hotel Market Analysis for the Lake Flower Hotel was prepared by HVS Property Tax Services and dated January 26, 2015. The analysis reviewed the size and scale of the project to determine if the project is reasonable and consistent with the Saranac Lake market and necessary for project viability. Through a comparative review of 50 to 70 rooms and 80 to 100 rooms, the analysis concluded that hotels in this particular market with rooms in the 90 plus range are “more successful and have less financial challenges.” The Village of Saranac Lake commissioned the report in 2014 as part of its planning review for the project.

The applicant has stated that, in regards to a generic market analysis, and through review of comparative markets and facilities of a similar size and scope, the facility is estimated to have operating sales of approximately \$10 million.

29. According to the application, the estimated number of temporary employment positions during construction is 32 full-time positions for 40 weeks and 20 part-time positions for 20 weeks. The estimated number of permanent employment positions is 70 full-time positions, 30 part-time positions and 5 seasonal employment positions to support operations.
30. The application states that “having to reduce the size and seating capacity of the proposed restaurant/seating area and elimination of the pergola and hot tub/fire pits and other variance items as proposed” would result in “potentially jeopardizing the economic feasibility of the project.”

PUBLIC NOTICE AND HEARING

31. Following receipt of the variance and permit application, the Agency notified all parties as required by the Adirondack Park Agency Act and Agency regulations and published a Notice of Complete Permit Application and Notice of Hearing in the Environmental Notice Bulletin and in the Adirondack Daily Enterprise, a newspaper of general circulation in the area.

On January 6, 2017, the Agency held an informational session on the project in the Village of Saranac Lake. The informational session was attended by Agency staff, the applicant and its consultants, and 46 members of the public. Twenty individuals provided comment during the informational session.

On January 6, 2017, the Agency also held a public hearing on the variance request in the Village of Saranac Lake. The public hearing was attended by Agency staff, the applicant and its consultants, and 24 members of the public. Ten individuals provided comment during the hearing.

Thirty-seven comment letters regarding the proposal were received by the Agency. In total, 45 individuals provided comments either at the public information meeting, variance public hearing, or via letter regarding the project and/or variance. Twelve individuals stated they were in favor of the proposal, and one letter stated it represented 195 named individuals in favor of the proposal. Thirty-three individuals expressed concerns regarding impacts from the project including traffic, parking, size of development, visual impacts, local approvals, stormwater, and impacts to wetlands.

Concerns regarding whether the variance elements met the variance criteria were also expressed. Several members of the public requested that an adjudicatory hearing be held on the proposal.

PROJECT IMPACTS

Visual

32. The Visual Impact Analysis (VIA) demonstrates that the hotel will be visible from various locations within the Village of Saranac Lake within ½ mile of the project site. As noted by the Village Planning Board, the height of the hotel will be significantly higher than the existing structures, and will obstruct views from properties in the adjacent neighborhood. Views from Lake Flower in front of and to the west and immediate north and south of the project site and views from residential properties across Lake Flower will be also be impacted by the hotel. In addition, a portion of the roof will be visible from the nearby summit of Mount Baker.

The VIA also demonstrates that the hotel will not be visible from any locations greater than ½ mile from the project site, except from the summit of Mount Baker. The hotel will also not be visible from most of the southern end of Lake Flower. Views of the hotel from the north, west, and south are back-dropped by existing topography and vegetation.
33. To help mitigate visual impacts, the hotel was designed to use colors, materials and architectural elements to reflect surrounding buildings. As noted by the Village Planning Board, the colors of the structure will blend with surrounding buildings and natural features. The preservation of the northern cedar hedge and an additional 26 mature trees, along with the addition of landscape plantings, will also help to mitigate visual impacts.
34. The VIA and Agency review of the proposal indicate that the hotel and associated structures will have a visual impact within the Village of Saranac Lake. Limiting the maximum size and height of the hotel, requiring review of the final colors of exterior finish materials, requiring that all exterior lighting be shielded and angled downward, requiring review of any changes to the signage for the hotel, requiring the maintenance of an existing cedar hedge and an additional 26 mature trees, and requiring that landscaping and plantings be undertaken will all help to minimize these visual impacts.

Habitat/Wetlands

35. Installation of the dock in wetlands as authorized herein will result in minimal wetland areal loss. The overall function of the wetland will be increased because existing docks will be removed from the emergent portion of the wetland.
36. Requiring written authorization prior to any change in the docks on the project site will allow the Agency to ensure that the location and manner of construction will not adversely impact wetlands. A new or amended permit will be required for any future activity that involves wetlands pursuant to 9 NYCRR § 578.
37. Impacts to wetland functions were also minimized by the reduction in impervious area, stormwater management, and erosion and sediment control plan.

Soils/Surface Waters/Groundwater

38. Requiring stormwater management, erosion and sediment control, and grading to be undertaken in compliance with the SWPPP and Project Plans will serve to protect groundwater and surface water resources on the project site.
39. Requiring maintenance of the permeable pavement will ensure the stormwater management system functions as designed.
40. Use of the municipal system for wastewater from the project site will ensure proper treatment under all New York State Department of Environmental Conservation standards.

Historic Sites or Structures

41. The project will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR § 426.2 for the purposes of implementing § 14.09 of the New York State Historic Preservation Act of 1980.

Nearby Land Uses

42. The views of Lake Flower from residential and commercial properties located on the east side of NYS Route 86 will be impacted by the overall size and height of the new hotel. Views from Lake Flower in front of and to the west and the immediate north and south of the site and views from residential properties across the lake will be also be impacted by the hotel. To help mitigate these visual impacts, the hotel was designed to use colors, materials and architectural elements to reflect surrounding buildings, and the northern cedar hedge, as well as 26 additional mature trees, will be retained.

Increased traffic resulting from the hotel may also impact nearby and adjacent land uses. The Traffic Impact Study indicates that at peak times, an additional 34 vehicles could be entering/exiting the project site. To help mitigate traffic impacts, access to the hotel will be located on the southwest side of the site, away from the intersection of River Road and Lake Flower Avenue.

Limiting the maximum size and height of the hotel, requiring review of the final colors of exterior finish materials, requiring that all exterior lighting be shielded and angled downward, requiring review of any changes to the signage for the hotel, requiring the maintenance of an existing cedar hedge, as well as 26 additional mature trees, requiring that landscaping and plantings be undertaken, requiring review of any changes to the parking plans, requiring that all wastewater be connected to the municipal system, and requiring that all stormwater be managed in accordance with the approved plans, including management of the permeable pavement, will all help to minimize impacts to adjacent land uses.

Economic/Fiscal Factors

43. In the resolution establishing the Lake Flower Planned Unit Development District (PUDD) on September 10, 2014, the Village of Saranac Lake acknowledged the facility will have substantial benefits including having a venue for weddings and conventions and increases to property tax value and revenues, water and sewer fees, the demand for professional and other services, and tourism visits.

The project will provide updated hotel and conference facilities for the Saranac Lake area and will result in new employment opportunities.

Governmental Review Considerations

44. Requiring that the development be undertaken in accordance with the project plans, including all parking, infrastructure and stormwater plans will help to minimize impacts to the local government. The Village Board of Saranac Lake determined that the project advances goals and priorities of village planning documents, and the Planning Board has reviewed and conditionally approved the project.

VARIANCE IMPACTS AND CRITERIA

DISCUSSION

The Agency may grant a variance where there are practical difficulties in carrying out the restrictions set forth in Section 806(1)(a)(2) of the APA Act. The Agency has considered the standards and factors set forth in 9 NYCRR § 576.1(b)-(c).

§ 576.1(b): Whether the adverse consequences to the applicant resulting from denial are greater than the public purpose sought to be served by the restriction.

The applicant states that adverse consequences resulting from denial of the requested variance would include having to reduce the size and seating capacity of the restaurant and elimination of the pergola and hot tub/fire pits, which would reduce the overall economic feasibility of the hotel project. In addition, the applicant notes that denial of the concrete sidewalk and ramp would mean the semi-public grassy area and dock would not be accessible to the public, as required by the Village of Saranac Lake in the PUDD; denial of the roof overhangs would mean that the

architectural design elements would not meet the project sponsor's objective for architectural symmetry of the building; denial of the hot tub would mean that the project would not meet the PUDD requirement for an outdoor pool, and denial of the fencing around the hot tub would mean

that the project would not meet DOH regulations, and denial of the sidewalk/paver walkways would result in the potential for soil erosion into Lake Flower.

The public purposes of the shoreline restrictions are to protect water quality and the qualities of Adirondack shorelines.

Water quality will be enhanced by the reduction of impervious area both within the shoreline setback area and throughout the remainder of the project site, as well through implementation of the SWPPP. The SWPPP for the site includes replacement of direct discharge pipes with a system that will treat the stormwater runoff, thereby having a positive impact on the water quality of Lake Flower. The project plans have been designed to reduce surface runoff and protect and enhance water quality.

The quality of the shoreline of Lake Flower will be protected because the elements requiring a variance will be located in a Hamlet land use area along a developed shoreline, and are consistent with the existing aesthetic character of the shoreline. In addition, the elements requiring a variance involve less impervious area within the setback than the existing structures. The variance elements will be back-dropped by the larger hotel from nearly every view from Lake Flower, and will be blocked entirely by the hotel building from views from the east and south. The preservation of the cedar hedge along the northern edge of the site will screen the elements requiring a variance from NYS Route 86 (River Rd.) to the north and east. The preservation of an additional 26 mature trees within 50 feet of the mean high water mark and the addition of landscape plantings will further limit visual impacts from the variance elements.

Weighing the factors considered herein, the adverse consequences to the applicant resulting from denial are greater than the public purposes served by the shoreline setback requirements.

§ 576.1(c)(1): Whether the application requests the minimum relief necessary.

The applicant's objective in designing and building the structures is to provide amenities typical to a full-service hotel, and to comply with the requirements stated in the PUDD established by the Village of Saranac Lake. The total square footage of new impervious area within the setback will be less than the existing impervious area, with approximately 4,073 square feet requiring a variance. Approximately 656 square feet of the variance area will be paver walkways and sidewalks between 5 and 10 feet wide and located at natural grade, with 117 square feet of this area comprising the accessible sidewalk described in the PUDD. Approximately 1,982 square feet of the footprint of the variance area will be the hot tub and associated structures, which the application noted fulfills the PUDD requirement of an outdoor pool. The application also noted that there have historically been two larger swimming pools within the setback area on the site. Approximately 903 square feet of the variance area footprint will be the portion of the restaurant located within the setback area. This portion of the restaurant will be located in the footprint of an existing pool, but requires a variance

because construction of the restaurant will result in an expansion in height. Approximately 235 square feet of the variance area footprint will be the pergola, which the application states is necessary for weddings and other functions at the hotel. Finally, approximately 297 square feet of the variance area footprint will be roofs and porches attached to the hotel, which the application states are necessary for architectural symmetry of the building.

During review of the proposal, the applicant reduced the size of the requested variance elements by: removing approximately 1,726 square feet of wood deck and 1,596 square feet of paver walking paths from the proposal, reducing the size of the hotel roof overhangs from 1,593 to 469 square feet within the 50-foot setback area, reducing the size of the restaurant from 1,162 to 730 square feet, reducing the size of the pergola from 410 square feet to 235 square feet, and reducing the size of the hot tub/fire pits from 2,039 to 1,982 square feet.

§ 576.1(c)(2): Whether granting the variance will create a substantial detriment to adjoining or nearby landowners.

The project site is located in the Village of Saranac Lake in an area of existing residential and commercial development. Fogarty's Marina, NBT Bank, a veterinary office, Pendragon Theater, a municipal park, a state boat launch, and numerous residential dwellings are located in the vicinity of the site. The variance elements will be located between the hotel building and the shoreline of Lake Flower, and will not be visible to adjoining landowners or from NYS Route 86. The variance elements will also be back-dropped by the hotel, and will be partially screened from the lake by plantings.

§ 576.1(c)(3): Whether the difficulty can be obviated by a feasible method other than a variance.

Development on the site is limited by the width of the property between Lake Flower and NYS Route 86, which varies from 200 feet to 280 feet. As the 93 room hotel and 100 car parking area encompass most of the land on the site located more than 50 feet from Lake Flower, the project design does not allow for the placement of all of the desired amenities outside of the shoreline setback area. A smaller hotel and associated parking area could be constructed on the project site, potentially allowing for some of the requested variance elements to be more than 50 feet from Lake Flower. Alternatively, the hotel and parking area could be constructed to the size requested without the amenities requiring a variance.

The applicant's Market Analysis indicates that a smaller hotel would be less successful and have more financial challenges. The application also states that reduction of the size of the restaurant and/or elimination of the pergola and hot tub/fire pits would reduce the overall economic feasibility of the hotel project. In addition, the applicant notes that: the project would not meet PUDD requirements if the hot tub were eliminated; the sidewalk and ramp were designed and located to provide access to the grassy semi-public open space area and semi-public docks, as referenced in the PUDD; the roof overhangs are necessary for the architectural symmetry of the building; the fencing around the hot tub is necessary for safety and to meet DOH requirements; and the sidewalk/paver walkways will help to prevent erosion into Lake Flower.

§ 576.1(c)(4): The manner in which the difficulty arose.

The applicant does not currently own the project site. Instead, the applicant is under contract to purchase the individual lots that comprise the site, dependent upon obtaining the necessary permits for the hotel development.

Development on the project site is limited by the width of the property between Lake Flower and NYS Route 86. The applicant could choose to construct a smaller hotel and associated parking area, which would allow for construction of some of the requested variance elements more than 50 feet from Lake Flower. The hotel and parking area could also be constructed to the size requested without the amenities requiring a variance.

§ 576.1(c)(5): Whether granting the variance will adversely affect the natural, scenic, and open space resources of the Park and any adjoining water body due to erosion, surface runoff, subsurface sewage effluent, change in aesthetic character, or any other impacts which would not otherwise occur.

The proposal involves the redevelopment of existing hotels in a Hamlet land use area, with both the overall project and the elements requiring a variance involving a smaller impervious area than the existing development. The natural, scenic, aesthetic, and open space character of the shoreline will not be impacted by the variance structures, because they are located in a developed area of the Village of Saranac Lake and will be back-dropped by the hotel and partially screened by existing trees and new plantings. In addition, the variance structures will not have an adverse impact on the water quality of the Lake Flower because impervious areas have been reduced and the design and stormwater management controls on the project site will improve management of surface water runoff.

§ 576.1(c)(6): Whether the imposition of conditions upon the granting of the variance will ameliorate the adverse effects noted above.

The conditions included in this Permit and Order will ameliorate any potential adverse effects from the variance elements. In particular, the conditions regarding lighting, exterior color, landscaping and vegetation plans, wetlands, erosion control, stormwater management implementation and maintenance, invasive species control measures, and adherence to the approved plans will ensure that there will be no adverse effects from the granting of the variance.

CONCLUSION OF LAW

Class A Project

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 project authorized as conditioned herein:

- a. will be consistent with the land use and development plan;
- b. will be compatible with the character description and purposes, policies, and objectives of the Hamlet land use area;
- c. will be consistent with the overall intensity guidelines for the Hamlet land use area;

- d. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act, except as approved in the variance granted herein;
- e. 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;
- f. 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
- g. will result in minimal degradation or destruction of the wetland or its associated values, and is the only alternative which reasonably can accomplish the applicant's objectives.

Variance

The Agency has considered all of the standards and factors for issuance of a variance as set forth in 9 NYCRR Parts 576. The Agency hereby finds that the applicant's variance request meets the approval criteria, provided the authorized activities are undertaken as described herein and in compliance with the conditions set forth above.

A variance of the terms of the Executive Law is not personal and runs with the land. Recording of this Order is intended to provide notice to subsequent owners of the variance site.

PERMIT AND ORDER issued this day
of , 2017.

ADIRONDACK PARK AGENCY

BY: _____
Richard E. Weber III
Deputy Director (Regulatory Programs)

STATE OF NEW YORK
COUNTY OF ESSEX

On the day of in the year 2017, 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 he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

REW:TM:TJD:slp