

THIS IS A TWO-SIDED DOCUMENT

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <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 Project Permit 2016-0114</p>
<p>In the Matter of the Application of</p> <p>BARILE FAMILY, LLC</p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act and 9 NYCRR Part 578</p>	<p>Date Issued: February 16, 2017</p> <p>To the County Clerk: This permit must be recorded on or before April 17, 2017. Please index this permit in the grantor index under the following names: 1. Barile Family, LLC</p>

SUMMARY AND AUTHORIZATION

This permit authorizes a 17-lot subdivision and construction of 15 single family dwellings in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map in the Town of North Elba, Essex County.

This permit shall expire unless recorded in the Essex County Clerk's Office on or before April 17, 2017, 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 two years from the date the permit is recorded. The Agency will consider the project in existence when an authorized lot has been conveyed to an outside party.

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 permittees, 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 permittees 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 a 590± acre parcel of land located on NYS Route 73 in the Town of North Elba, Essex County, in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map. The site is identified on Town of North Elba Tax Map Section 52.1, Block 1, as Parcels 40.110 & 59, and Section 52.3, Block 1, Parcels 2.11, 4.1, 4.2, 4.3, and 4.4. The current recorded deeds for the project site are recorded in the Essex County Clerk's Office as six deeds from Joseph J. Barile to Barile Family, LLC dated March 18, 2011 and recorded in Liber 1670 of Deeds at Pages 222, 229, 236, 243, 250 and 257.

PROJECT DESCRIPTION

The project as conditionally approved herein involves the subdivision of 590± acres containing wetlands into 17 lots in a Resource Management land use area. One lot, Parcel A as depicted on the Site Plan, contains the vast majority of the wetlands, is 475± acres in size, and will be owned and maintained by a homeowner association. Parcel A will include the common access roads, recreation trails, and a 1,500 sq. ft. maintenance and storage shed. The 16 residential lots range in size from 5.01± acres to 12.11± acres and are located in the northern portion of the project site. Lot 3 is developed by a pre-existing single family dwelling. Each of the 15 building lots will be developed by one single family dwelling, guest cottage and garage served by one individual on-site wastewater treatment system (OSWTS) and well water supply. As proposed and described in the "Declaration of Covenants, Restrictions, Easements and Liens of the Far Horizon Homeowner Association", the maximum building footprint of each single family dwelling will not exceed 6,000 square feet and the maximum building footprint of each guest cottage will not exceed 2,000 square feet. Each accessory use garage will have a maximum building footprint of 1,500 square feet. Single family dwellings and guest cottages on each lot will not exceed 40 feet in height and accessory garages on each lot will not exceed 25 feet in height. The Homeowner Association will hold and manage Parcel A, and will regulate development through an Architectural Review Committee.

Access to each of the building sites will be afforded by individual driveways from Parcel A's three common access roads entering from NYS Route 73. Electrical distribution lines and telecommunication lines will be installed underground along the common access roads and driveways.

The authorized lots are as follows:

Lot 3, 10.01 acres,	Lot 4, 12.11 acres;
Lot 5, 7.7 acres;	Lot 6, 6.63 acres;
Lot 7, 6.03, acres;	Lot 8, 6.14 acres;
Lot 9, 6.15 acres;	Lot 10, 5.67 acres;
Lot 11, 5.01 acres;	Lot 12, 5.95 acres;
Lot 13, 6.60 acres;	Lot 14, 6.00 acres;
Lot 15, 5.03 acres;	Lot 16, 7.17 acres;
Lot 17, 7.65 acres;	Lot 18, 10.56 acres; and
Parcel A, 475.6 acres.	

Lot 3 is improved by a pre-existing single family dwelling. Lots 4-18 are vacant lots on which the construction of one single family dwelling and accessory use structures is proposed. Parcel A is the open space lot, to be owned by the Far Horizon Homeowner Association.

Two additional lots (#1 and #2) involving 18.4± acres in a Rural Use land use area along Route 73 are also proposed, but are not subject to Agency jurisdiction.

A sign at the entrance to the project site from Route 73 will be mounted to an existing stone pillar and measures 4 square feet in size. It will be externally illuminated.

The project is shown on 13 sheets of plans prepared by Ivan Zdrahal Associates, PLLC. and titled, "Project Development Plans, Far Horizon Lands of Barile Family, LLC, Town of North Elba Essex County, NY" dated February 22, 2016 and last revised December 6, 2016 ("Project development plans") as follows:

- L-1:** General Notes, Legend & Typical Lot Layout
- S-1:** Composite Subdivision Plan
- S-2:** Proposed Lots
- GD-1:** General Development Plan ("Site Plan")
- E-1:** Lot Development Plan Lots 1-4
- E-2:** Lot Development Plan Lots 5-8
- E-3:** Lot Development Plan Lots 9-15
- E-4:** Lot Development Plan Lots 16-18
- P-1:** Common Private Drive Profiles
- D-1:** Construction Details
- D-2:** Septic System Details
- ES-1:** Erosion and Sediment Control Plan

The application also includes stormwater management details described in two reports titled "Engineer's Report, Stormwater Pollution Prevention Plan (SWPPP)" and "Stormwater Management Report," both dated May 13, 2016, and last revised September 16, 2016.

A reduced-scale copy of the Site Plan for the project, shown on Sheet GD-1 and dated December 6, 2016, is attached as a part of this permit for easy reference. The original, full-scale maps and plans described in this paragraph are the official plans for the project, with copies available upon request from Adirondack Park Agency headquarters in Ray Brook, New York.

AGENCY JURISDICTION

The project requires an Agency permit pursuant to §§ 809(2)(a) and 810(1)(e)(1), (b), (d), and (e), 810(1)(e)(3) and § 810(2)(d)(1) of the Adirondack Park Agency Act [Executive Law, Article 27], because it is a subdivision, involving wetlands, on Resource Management lands, within one-eighth mile of lands classified as wilderness, within 300 feet of the edge of the right of way of a state highway and involves the construction of single family dwellings on Resource Management lands.

The project is a regulated activity requiring a wetlands permit pursuant to § 578.2 and § 578.3(n)(1)(i) and § 578.3(n)(3)(i) of Agency regulations implementing the Freshwater Wetlands Act [Article 24 of the Environmental Conservation Law], because it is a regulated activity involving wetlands.

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 Essex County Clerk's Office.
2. This permit is binding on the permittees, 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, Project Development Plans, SWPPP and Stormwater Management Report shall be furnished by the permittees to all subsequent owners or lessees of any portion of the project site prior to sale or lease, and by the permittees 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].

Deeds

Recordation

4. 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 2016-0114, issued February 16, 2017, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

Subdivision

5. Subject to the conditions stated herein, this permit authorizes a 17-lot subdivision as depicted on the Project Development Plans. Any subdivision not depicted on the Project Development Plans shall require a new or amended permit.

Deed Covenant

6. The deed of conveyance for Parcel A shall contain a covenant restricting the property against the construction of any single family dwelling, mobile home, or other/principal building as that term is defined under the Adirondack Park Agency

Act. The deed shall state that the covenant shall run with, touch and concern the land, and that the covenant shall be enforceable by the Adirondack Park Agency and the State of New York.

Development

Construction Location and Size

7. Subject to the conditions stated herein, this permit authorizes the construction of one single family dwelling, guest cottage, and accessory garage on Lots 4-18 within the Lot Development Areas depicted on the Project Development Plans, and the construction of an HOA maintenance and storage shed and footbridge on Parcel A in the location shown on the project development plans. Any construction outside of these locations shall require prior written Agency authorization.
8. No new single family dwelling on the project site shall exceed 6,000 square feet in footprint, including all attached structures such as decks, porches, exterior stairs and necessary structures. No new or replacement accessory garage shall exceed 1,500 square feet in footprint. No new or replacement guest cottage shall exceed 2,000 square feet in footprint, or exceed half the footprint size of the dwelling it is accessory to, whichever is smaller. Guest cottages on the project site shall be used only on an occasional basis and shall not be offered or used for rent or hire separately from the primary dwelling on the property.
9. No new or replacement single family dwelling or guest cottage shall exceed 40 feet in height. No new or replacement garage shall exceed 25 feet in height. Height shall be measured from the highest point of the structure, including chimneys, to the lower of either original or finished grade.
10. The undertaking of any new land use or development not authorized herein on the project site shall require prior written Agency authorization.

Outdoor Lighting

11. Any new free-standing or building-mounted outdoor lights shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward adjoining property.

Any lighting along the Access Roads and individual driveways shall require prior written Agency authorization.

Building Color

12. All exterior building materials, including roof, siding and trim, of any new or replacement structure on the project site shall be a dark shade of green, grey, or brown or of a color that blends with the existing vegetation.

Tree Cutting/Vegetation Removal

13. Within 300 feet of the centerline of NYS Route 73 no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed on the project site without prior written Agency authorization, except for the removal of 1) an area up to 40 feet in width for access road construction and utility installations as depicted on the Project Development Plans, 2) an area up to 30 feet in width, for driveway construction and utility installations as depicted on the Project Development Plans, and 3) dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.
14. New vegetative clearing on each authorized residential lot shall not exceed 40,000 square feet within the Lot Development Areas depicted on the Project Development Plans. Any additional cutting within the Lot Development Areas shall require prior written Agency authorization, except to allow for the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.
15. Outside of the Lot Development Areas on the residential lots, selective thinning of trees may occur within the "Selective Thinning Envelopes" shown on the Project Development Plans. Selective thinning within the envelope shall not exceed 20,000 square feet on any individual lot. Within the "Selective Thinning Envelopes", any trees that are removed because they are dead, dying or diseased after establishment of the filtered view shall be replaced with similar native nursery-grown trees as specified in the Homeowner Association Declaration of Covenant, Restrictions and Liens.

Each single-family dwelling may develop a limited, filtered view to the south that is framed by the trunks and branches of existing trees and shrubs. Trimming and limbing of existing trees shall be the primary means to achieve such filtered views with limited selective removal of individual trees. Buildings shall remain partially screened as viewed from the public lands to the south. Development of open panoramic views or clear-cut corridors of the High Peaks to the south will not be permitted.

Tree trimming shall be performed so as to maintain the overall natural shape of the trees. Topping of trees, removal of branches predominantly on one side of a tree and removal of all lower branches so that less than 1/3 of the tree crown remains shall not be permitted.

No individual homeowners may cut trees, limbs or branches or any vegetation in the Selective Thinning Envelopes without prior review and authorization by the Homeowner Association.

Within 30 days of completing the selective thinning on any residential lot, the Architectural Review Committee of the Homeowner Association shall provide a report to the Agency listing both the trees that have been cut and the trees to remain within the selective thinning envelope. Trees shall be listed by species and diameter at breast height. Photographic documentation of the selective view as seen from directly in front of the dwelling looking to the High Peaks shall also be provided.

16. Without prior written Agency approval, there shall be no cutting on Parcel A except to allow for establishment of the access roads, maintenance and storage shed, and trail system and to maintain existing cleared areas as depicted on the Project Development Plans. There shall be no cutting on any residential lot except as described herein.

Invasive Species Control/Sanitizing Equipment

17. 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 that may contain invasive plant materials, seed, or other propagules. All construction equipment and vehicles operating in infested areas shall be thoroughly cleaned prior to moving to non-infested areas. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites.

Density

18. After the construction of the 15 new single family dwellings as authorized herein, there shall be no additional principal buildings located on the project site (other than any replacement structure for the dwellings as allowed by 9 NYCRR § 573.6).

Infrastructure

Wastewater

19. Any new or replacement on-site wastewater treatment system installed within five years of the date of issuance of this permit on the project site shall be constructed in conformance with the location and design shown on the Project Development Plans. 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.

Stormwater Management/ Erosion and Sediment Control

20. Stormwater management, erosion and sediment control, and grading shall be undertaken in compliance with the Stormwater Pollution Prevention Plan (SWPPP), Stormwater Management Report, and Project Development Plans referenced herein. Any modifications from these plans and report shall require prior written Agency approval.
21. Prior to undertaking any land disturbance activities on any individual lot, the lot owner shall implement the SWPPP and Stormwater Management Report using the stormwater management area depicted on the Project Development Plans.
22. Barile Family, LLC, or their successors shall implement the SWPPP, Stormwater and Erosion and Sediment Control Plans and Project Development Plans associated with any land disturbance on Parcel A.

Access

23. Prior to undertaking any development on Lots 4-18, the permittee or its successors shall provide to the Agency certification by a professional engineer licensed to practice in New York State that the common access roads on Parcel A have been constructed according to the Project Development Plans.

Utilities

24. Installation of utilities and telecommunications for all lots on the project site shall be underground along the access roads.

Signs

25. Any new signs on the project site shall comply with the sign standards established in Agency regulations at 9 NYCRR Appendix Q-3.

Reports

26. At the request of the Agency, the permittee or the permittee's successor shall report in writing the status of the project, including details of compliance with any terms and conditions of this permit.

FINDINGS OF FACT

Background/Prior History

1. The project site was included as a portion of the project site for Agency Permit 2005-291, issued May 15, 2006, and recorded at the Essex County Clerk's Office on July 12, 2006. That permit authorized a six-lot subdivision and construction of three single family dwellings.

By letter dated November 2, 2007, the applicants requested that Permit 2005-291 be amended to add an additional lot and re-locate the subdivision road. The Agency determined that the requested amendments involved a material change pursuant § 809(8)(b) of the Adirondack Park Agency Act.

2. The project site was included as a portion of the project site for Agency Permit 2007-289, issued April 22, 2008, and recorded at the Essex County Clerk's Office on June 20, 2008. That permit authorized a seven lot subdivision of the then 605 acres and the construction of four single family dwellings.

By letter dated April 21, 2012, a request was made to amend Permit 2007-289. Agency Permit 2007-289A, issued March 4, 2013, and recorded at the Essex County Clerk's Office on March 13, 2013, recognized that Permit 2007-289 was in existence, authorized modifications to the access road from NYS Route 73, and re-configured the authorized lots and building envelopes.

Lot 1, as authorized by Permits 2007-289 and 2007-289A, was conveyed on July 31, 2013. Lot 1 is improved by two pre-existing single family dwellings. Lot 1 remains subject to the terms and conditions of Permits 2007-289 and 2007-289A, and is not a part of the project site for this permit.

APA Permit 2014-52 authorized a seven-lot subdivision involving 605 acres. The permit was never recorded and is, therefore, null and void.

Project Site

Water Resources

3. Parcel A on the project site contains North Meadow Brook and associated wetlands in the central portion of the site. The brook flows west through the site to adjoining property. It is a tributary to the West Branch of the AuSable River, a Recreational River.
4. North Meadow Brook forms the easterly boundary of Lots 16, 17 and 18. These lots contain wetlands. The development authorized herein will be located a minimum of 400 feet from North Meadow Brook at least 50 feet from wetlands.
5. Parcel A also has two dug ponds, each less than one acre in size, on the central portion of the project site adjacent to the wetlands.
6. Water courses, including permanent and intermittent streams and drainages, were evaluated in the field and through the course of review and are depicted on the Project Development Plans. The site may contain additional water courses not depicted on these maps and plans.
7. Groundwater will serve as the water source for each individual well supply on the 15 building lots.

8. Parcel A contains an existing well that serves the existing dwelling/improvements on Lot 3, as shown on the project development plans. Parcel A will be conveyed to the Homeowner Association subject to an easement for the continued use, maintenance, repair and replacement of this well and its appurtenances, including, but not limited to, the well itself, pumps and underground pipes.

Wetlands

9. Wetlands on the project site are described in a report titled "Qualitative Biological Survey, Far Horizons Residential Subdivision" prepared by North Country Ecological Services, Inc. of Gloversville, NY, dated September 9, 2016. The Site Plan maps show wetland boundaries. The site may contain additional wetlands not described herein or depicted on these maps and plans.
10. There is an extensive wetland associated with North Meadow Brook and its tributaries in the central portion of the project site. The wetland is a mixed emergent, shrub and forested wetland, with a value rating of "1" pursuant to 9 NYCRR Part 578.
11. Impacts to wetland hydrology from proposed development activities were eliminated through siting considerations, stormwater management, and erosion control practices.
12. An existing culvert in wetlands will be removed and replaced with a wooden footbridge along one of the recreational foot trails on Parcel A. The bridge will be 24 feet long by 4 feet wide.
13. This project will not involve any loss of wetland acreage, function or benefits derived therefrom, and therefore, compensatory mitigation is not required.

Wildlife/Habitat

14. The application included a qualitative biological inventory titled "Qualitative Biological Survey, Far Horizons Residential Subdivision," prepared by North Country Ecological Services, Inc. and dated September 9, 2016. In addition to general habitat type and covertype descriptions, the report includes a comprehensive list of plant and animal species recorded on the site and anticipated to occur on the site.
15. At full build-out, the un-developed portion of the project site (475.6 acres in Parcel A, over 80 percent) will remain as available wildlife habitat.
16. Pursuant to a letter dated August 26, 2016 from the New York State Department of Environmental Conservation (DEC)/Natural Heritage Program (NHP), there is no record of any rare plants, rare animals, or natural communities currently being tracked by the NHP on the project site.

Critical Environmental Areas/Other Sensitive Areas

17. The northern-most portion of the project site is located within 300 feet of NYS Route 73 and the southern-most portion of the project site is located within one eighth mile of the High Peaks Wilderness area. No development will occur within these designated critical environmental areas.

Vegetation

18. As described in the qualitative biological inventory prepared by North Country Ecological Services, Inc., the following ecological communities are found on the project site: spruce-northern hardwood forest, pine-northern hardwood forest, successional old field, mowed lawn, spruce fir swamp, shallow emergent marsh and artificial pond.
19. Portions of the property are open meadows, such as the area around the existing single family dwelling on Lot 3 and recently cleared fields located in the central portion of the site. The rest of the site is forested with a variety of coniferous and deciduous trees. Recent logging operations have opened up the under-story of the forest on the northerly portion of the site and many wood roads transect the property.

Soils

20. The soils on the project site are of the Sunapee-Monadnock Complex soil series throughout. The soils on Lots 4-15 and Lots 17 and 18 are silty-loam and sandy loams with areas of cobbly loams with a depth to the seasonal high groundwater table greater than 48 inches below the surface. The soils on Lot 16 are also of a loam mix but with a depth to the seasonal high groundwater table of 44 inches below the surface thereby requiring a shallow absorption trench absorption field.
21. In consultation with Agency staff, a licensed engineer from Ivan Zdrahal Associates, PLLC. conducted one or more soil percolation tests and evaluated one or more deep-hole soils test pits in the location of each authorized on-site wastewater treatment system. The location of each percolation test and each acceptable deep-hole test pit is shown on the Site Plans, and the Agency approved data from each pit and test is provided on the Sheet L-1.
22. The Stormwater Pollution Prevention Plan (SWPPP) takes soil types into account when siting stormwater management areas.

Slopes

23. The northern section of the project site has moderate slopes and good soils. North Meadow Brook and associated wetlands are located in the central section of the site. The southern section is the north slope of Mt. Van Hoevenberg. It has steep slopes and poor soils. Slopes on the northern and central portions of the site are generally in the 3 to 8 percent range. Slopes on the southern portion of the site are generally greater than 25 percent.

24. All of the authorized on-site wastewater treatment system absorption fields have been located on existing slopes of 8% or less.
25. Centerline profiles for the access roads on the project site are depicted on Sheet P-1 of the Site Plan. The final slope grades do not exceed 15% over any length or 12% average grade over any 150 foot length.

Nearby Land Uses

26. The project site is located about two miles southeast of the Village of Lake Placid on NYS Route 73, adjacent to lands of the State of New York classified Wilderness and Intensive Use. The site is situated just north and adjacent to the High Peaks Wilderness Area and borders on the Mt. Van Hoevenberg Intensive Use Area. The private lands around the site are characterized by scattered residences and undeveloped agricultural and forest lands.

Density

27. Considering pre-existing principal buildings on the project site, the acreage of the site, and allocations of principal buildings in prior agency permits, sufficient density allowances for the project exists. This project uses all remaining principal buildings available on the project site.

Infrastructure

Wastewater

28. An on-site wastewater treatment system constructed as located and depicted on the Site Plan will comply with all applicable New York State Department of Health and Agency standards.
29. The seasonal high groundwater on Lot 16 is less than 48 inches below grade; therefore, a shallow absorption system is required.

Stormwater Management and Erosion and Sediment Control

30. Clearing, grading, and new impervious areas can result in erosion and sedimentation and increased stormwater runoff. The impacts associated with untreated 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 SWPPP estimated that the new impervious area associated with each of the 15 building lots will be 11,000 square feet.

Infrastructure Maintenance

31. The Far Horizon Homeowner Association will be responsible for maintaining commonly held property and infrastructure, including Far Horizon Drive, North Meadow Lane and South Meadow Lane access roads and the common areas on Parcel A including the maintenance and storage shed.

Access

32. An existing private driveway serving Lot 3 provides access to the project site from NYS Route 73. Access for Lots 4-18 will be along a portion of Parcel A developed as a common private road, 1± mile in length, shown on the Project Development Plans as Far Horizon Drive. North Meadow Lane will be 600± feet in length and provide access from Far Horizon Drive to Lots 6 and 7. South Meadow Lane will be 1,100± feet in length and provide access from Far Horizon Drive to Lots 8-12.
33. The common access roads as shown on the Project Development Plans will have a travel width of 18 feet with a 2 foot shoulder on each side and a maximum clearing width of 40 feet. Surface materials will be gravel. These access roads will be constructed along existing roads and logging trails.

Signs

34. The entrance sign authorized herein complies with Agency regulations at 9 NYCRR Appendix Q-3.

Public Notice and Comment

35. The Agency notified all adjoining landowners and other parties and published a Notice of Complete Permit Application in the Environmental Notice Bulletin, as required by the Adirondack Park Agency Act. One comment letter was received expressing concerns with the project. Areas of concern include: distance from access roads to adjoining lands, devaluation of property, and status of previous permits 2007-289 and 2007-289A.

Local and State Review

36. A Local Government Notice Form signed April 4, 2016 by the Town of North Elba Code Enforcement Officer indicates that the project is not prohibited by any local law or ordinance, but does require building permits and will need to meet the income based housing regulations in Section 5.6.2 of the Town of North Elba Planning and Zoning Code.
37. The proposal will require a State Pollution Discharge Elimination System (SPDES) permit from the DEC because it includes more than one acre of land disturbance. A draft Notice of Intent is included in the SWPPP.

Historic Sites or Structures

38. The project site is located within an archeologically sensitive area as mapped by the Office of Parks, Recreation, and Historic Preservation. The project was referred to the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) for review and comment. By letter dated December 8, 2016, OPRHP 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.

PROJECT IMPACTS

Visual

39. Requiring all new single family dwellings and guest cottages to be less than 40 feet in height and all garages to be less than 25 feet in height; all residential structures to be located within the Lot Development Area on each lot; and all structures to have exterior building materials that are dark green, grey or brown in color will help to screen development and maintain the character of the surrounding scenic vistas. Restricting cutting on all of the lots and within 300 feet of NYS Route 73 will also help to screen the development. The structures authorized herein will not be visible from NYS Route 73.
40. The Homeowner Association Declaration of Covenant, Restrictions and Liens specifies that, within the "Selective Thinning Envelope" proposed for filtered view, once the filtered view is established, any trees that are removed because they are dead, dying or diseased will be replaced with similar nursery grown trees.
41. Requiring new outdoor lights to employ full cut-off fixtures will reduce nighttime light pollution (glare, light trespass and sky glow) and minimize the light cast toward the High Peaks Wilderness area and or adjoining property.
42. Requiring Agency review of any lighting along access roads and driveways will also minimize light cast.

Wetlands

43. Provided the development authorized herein is undertaken in the location depicted on the Project Development Plans and in accordance with the conditions of the permit, the entire wetland will be preserved, without any loss of values.
44. Through siting considerations, stormwater management and erosion control practices, the authorized development activities will not divert surface drainage that adversely increases erosion siltation or sedimentation into wetlands, and will not impair the functions served by or benefits derived from wetlands.

45. Requiring written authorization prior to any change in the authorized location of development 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.

Habitat

46. Restricting the density of the subdivision to 16 principal buildings, and concentrating the dwellings in the northern part of the parcel, with no opportunity for further subdivision or additional principal buildings will ensure that the un-developed portion of the 590±-acre project site, over 80 percent, will remain as available wildlife habitat. The clearing and grading associated with development of the 15 building lots is a small portion of the project site. The remaining lands will continue to provide natural habitats for wildlife species, as well as travel corridors that maintain ecological connectivity between both on-site and off-site communities.

Soils/Surface Waters/Groundwater

47. Construction of new on-site wastewater treatment systems in accordance with the project development plans will protect groundwater and surface water resources.
48. Requiring stormwater management, erosion and sediment control, and grading to be undertaken in compliance with the SWPPP, Stormwater Management Report, and Project Development Plans and identifying responsible parties will serve to protect groundwater and surface water resources.
49. Restricting the development activities and vegetation removal within each lot on the project site will serve to reduce stormwater runoff volumes, assist in treatment of runoff, and protect soil and water resources.
50. Installation of the driveways in the locations depicted and in accordance with the Project Development Plans will serve to protect soil, groundwater, and surface water resources.
51. Restricting the footprint of new principal buildings and accessory structures on each residential lot will serve to protect soil, groundwater, and surface water resources.
52. Requiring the footbridge authorized herein to be built in the location depicted on the Project Development Plans and in accordance with the conditions of the permit will ensure that North Meadow Brook will not be impacted.

Invasive Species

53. Requiring inspection and cleaning of construction vehicles and tools prior to use on the project site or after use in an area with invasive plant species will reduce the likelihood of spreading invasive plants to the project site and adjoining properties.

Infrastructure

54. Requiring all improvements to the subdivision access roads and common areas to be constructed by Barile Family, LLC or their successors, in accordance with the project development plans will ensure lot owners and Town emergency services adequate access.

Historic Sites or Structures

55. 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

56. The location of Far Horizon Drive and the requirement of a vegetative buffer between adjoining landowners and the access road will protect against impacts to nearby landowners.

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 be consistent with the land use and development plan;
- b. will be compatible with the character description and purposes, policies, and objectives of the Resource Management land use area;
- c. will be consistent with the overall intensity guidelines for the Resource Management land use area;
- d. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act;
- 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 be compatible with preservation of the entire wetland and will not result in degradation or loss of any part of the wetland or its associated values.

PERMIT issued this day
of , 2017.

ADIRONDACK PARK AGENCY

BY: _____
Terry Martino
Executive Director, Adirondack Park Agency

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 Terry Martino, 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.

Notary Public

TM:MBA:slp