

| | |
|---|---|
|  <p>Adirondack parkagency</p> <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p> | <p>APA Project Permit 2001-249</p> |
| <p>In the Matter of the Application of</p> <p>TOWN OF HARRIETSTOWN</p> <p>for a permit pursuant to §809(9) of the Adirondack Park Agency Act and 9 NYCRR Part 578</p> | <p>Date Issued: June 16, 2011</p> <p>To the County Clerk: This permit must be recorded on or before August 15, 2011. Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none">1. Town of Harrietstown |

SUMMARY AND AUTHORIZATION

The Town of Harrietstown is granted a permit, on conditions, authorizing a nineteen-lot subdivision involving wetlands, a large-scale project known as the Harrietstown Business Park. The Harrietstown Business Park is a planned development for new industrial and commercial uses in an area classified Industrial Use on the Official Adirondack Park Land Use and Development Plan Map in the Town of Harrietstown, Franklin County.

The projects authorized herein may not be undertaken until this permit is recorded in the Franklin County Clerk's Office. This permit shall expire unless so recorded on or before August 15, 2011, in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

The project as authorized herein shall not be undertaken or continued unless the project is in existence within four years from the date the permit is recorded. The project will be considered in existence when one of the nineteen lots approved herein is conveyed or leased.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

AGENCY JURISDICTION

The project consists of a nineteen-lot subdivision for development of industrial uses and commercial uses in an Industrial Use land use area, Class B regional projects pursuant to §810(2)(e)(2) and (3) of the Adirondack Park Agency Act.

The proposed nineteen-lot subdivision involves a subdivision of wetlands and requires a permit pursuant to 9 NYCRR 578.2 and 578.3(n)(3)(ii)(a). Land use or development on the lots being created is subject to Agency review and approval pursuant to 9 NYCRR 573.4(d).

PROJECT SITE

The project site consists of 1240± contiguous acres identified on Town of Harrietstown Tax Maps as Section 423, Block 1, Parcel 41 and Section 423, Block 2 as Parcel 17. It is classified Industrial, Rural Use and Resource Management on the Adirondack Park Land Use and Development Plan Map. The specific area of the Business Park is classified as Industrial Use.

The project site is described in part in a deed from Paul Smith's Hotel Company to the Town of Harrietstown dated October 3, 1941 which was recorded October 10, 1941 in the Franklin County Clerk's Office in Liber 233 of Deeds at Page 474. A Conveyance of Easements, Release of Restrictive Covenants, and Agreement dated February 12, 1996 also affects the use of this portion of the project site. The project site is also described in part in a deed from Norma M. Young to the Town of Harrietstown dated July 9, 1996 which was recorded July 15, 1996 in the Franklin County Clerk's Office in Liber 655 of Deeds at Page 103.

PROJECT DESCRIPTION AS PROPOSED

The project consists of a nineteen-lot subdivision for development of industrial uses and commercial uses. The supporting infrastructure will be planned and developed to accommodate a range of industrial and commercial activities including light manufacturing, assembly, fabrication; warehouse and distribution; product processing, research and development; storage and shipping of parts and completed products. Offices and other operations normally associated with such uses will be permitted. The infrastructure will be built in two phases to facilitate the phased development of businesses. The Business Park will have a common road system (Fay Brook Drive) with individual on-site water and wastewater treatment systems and electric and telephone service to each lot.

A draft of the Business Park Declaration of Covenants and Restrictions provided with the application details the restrictions and conditions for use of the Business Park, including the handling of solid and fluid waste, noise, lighting, signage, storage, landscaping, pesticide

use and maintenance, and provides site planning standards for building setbacks, parking, loading dock design, lighting, stormwater management, and building usages.

In Phase I, seven shovel-ready lots are designated and sufficient site development details have been proposed such that further review and approval is unnecessary or minimal. The Phase I lots will contain commercial-type buildings of typically 15,000 square feet (SF), although the design also includes one lot for a 20,000 SF building and one lot for a 25,000 SF building. The development of the individual lots will be the responsibility of the lot owner/developer and will include driveway and parking/loading area construction, utilities, stormwater management, and development of individual on-site water and wastewater treatment systems. The Town will extend Fay Brook Drive by approximately 800 feet and will construct the first side road (approximately 300 feet long) and its termination cul-de-sac.

The application states that completion of Phase I will allow for seven sites to be occupied, providing for up to 170± jobs. The timing of Phase II is dependent upon the success of Phase I. In Phase II, twelve additional shovel-ready sites will be designed and APA approval obtained. As part of the application for an APA permit, a site plan containing the building size, parking requirements, wastewater treatment system design and well location will be provided. In Phase II, the town will extend Fay Brook Drive an additional 1,750± feet and construct two side roads and their termination cul-de-sacs. As in Phase I, development of the individual lots will be the responsibility of the lot owner/developer.

The actual number, sizes and configurations of lots within the Business Park may change as the site builds out since some merging of lots to accommodate the needs of individual users is anticipated.

The project is shown on a set of 24 drawings entitled "Town of Harrietstown Business Park," prepared by North Woods Engineering PLLC and dated March 30, 2011 (with the exception of sheets C50, C51 and C53 which were last revised April 26, 2011 in response to comments). A reduced-scale copy of sheet C10 entitled "Phases I & II Overall Site Plan" is attached as part of this permit for easy reference. The original, full-scale maps and plans referenced in this permit are the official plans for the project.

CONDITIONS

BASED UPON THE FINDINGS BELOW, THE PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. The projects shall be undertaken as described in the completed application, the Project Description as Proposed and Conditions herein. In the case of conflict, the Conditions control.

Failure to comply with the permit is a violation and may subject the landowner, the applicants, successors and assigns to civil penalties and other legal proceedings, including suspension or revocation of the permit.

2. This permit is binding on the applicants, all present and future owners of the project site and all agents undertaking all or a portion of the project. Copies of this permit, the Commerce Park Declaration of Covenants, and the approved maps and plans referred to herein shall be furnished by the applicants to any contractor prior to undertaking new land use and development on any lot, and to all subsequent owners or lessees of the project site prior to sale or lease. All deeds and leases conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed (leased) are subject to Adirondack Park Agency Permit 2001-249 issued June 16, 2011, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors (lessees) and all subsequent grantees (lessees)."
3. The Agency may conduct such on-site investigations, examinations, tests and evaluations as it deems necessary to ensure compliance with the terms and conditions hereof. Such activities shall take place at reasonable times and upon advance notice where possible.
4. All uses and development in the Harrietstown Business Park must be undertaken in compliance with the Declaration of Covenants and Restrictions which has been drafted by the Town. The latest draft Declaration of Covenants and Restrictions is dated March 22, 2011 and was submitted to the Agency on April 1, 2011 as part of the application materials. Any revision shall be provided to the Agency for approval by letter of permit compliance prior to filing.

Wetlands

5. Except for the subdivision authorized herein, no "regulated activity" as defined in the Agency's Freshwater Wetland Regulations (9 NYCRR Part 578) shall occur on the project site without prior Agency approval. Such activities include, but are not limited to, new land use or development in, subdivision of, clearcutting more than three acres within, or dredging or filling of a wetland, or any other activity, whether or not occurring within the wetland, which pollutes it or substantially impairs its functions, benefits or values.

Stormwater Management

6. The stormwater management system for the Business Park shall be installed and maintained in accordance with the plans approved herein and in compliance with the Stormwater Pollution Prevention Plan dated March 30, 2011 and prepared by North Woods Engineering PLLC.

Wastewater Treatment and Well Water Systems

7. All future potential occupants of the Business Park shall satisfy all requirements of the NYS Departments of Health and Environmental Conservation regarding the planned design of potable water sources and wastewater collection and treatment systems. Any proposed water or wastewater system design plans which differ from the approved design plans outlined in this permit shall be submitted to the Agency for review and approval prior to system installation.

Outdoor Lighting

8. In keeping with the Draft Covenants and Restrictions for occupants of the Business Park, any new free-standing or building-mounted outdoor lights shall employ full cut-off fixtures; that is, they shall be fully shielded to direct light downward and not into the sky. The intent is to reduce nighttime light pollution (glare, light trespass and sky glow).

Signage

9. Any signs on the project site shall comply with the Business Park Declaration of Covenants and Restrictions and with 9 NYCRR Appendix Q-3 of the Adirondack Park Agency Regulations. A sign plan shall be submitted to the Agency for approval prior to installation.

Invasive Species Management

10. 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 site shall be clean and free of soil, mud or other similar material that may contain invasive plant materials, seed or other propagules. Equipment shall be pressure washed with hot water prior to being brought on the site. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites. The intent of this condition is to insure invasive plant species are not spread to the construction site. This condition does not apply to pavement grinders, paving

equipment, dump trucks used to transport hot asphalt or other equipment, including hand tools, used solely to surface the access road.

Review of Future Development

11. The future use of the seven Phase I shovel-ready sites can occur without further Agency review, on the condition that the proposed use of a given lot will utilize the site plan approved herein for that lot. Any proposed outdoor storage, building expansion, or other change to the site plan shall be reviewed and approved pursuant to an amendment request or letter of permit compliance.
12. Any reconfiguring or merging of the interior boundaries of Business Park Lots 1-7, as authorized herein, cannot occur without further Agency review and approval.
13. With regard to the Harrietstown Business Park, there shall be no further subdivision, extension of the Business Park road or construction of infrastructure, beyond the Phase I lots and infrastructure as described and authorized herein, including without limitation development on Phase II Business Park lots, without an additional or amended Agency permit.
14. Pursuant to the Draft Declarations of Covenants and Restrictions, businesses that anticipate a non-sanitary waste discharge shall prepare and submit a detailed waste stream analysis report to the NYS Department of Environmental Conservation and the Adirondack Park Agency for review.

FINDINGS OF FACT

Background/Prior History

1. On May 3, 1996, the Agency issued Permit and Order 96-38 which authorized a new industrial use and an access road to it through wetlands. The industrial use and access road have been completed. Permit and Order 96-38 also granted nonbinding conceptual approval for the proposed "business park" subject to a condition (Condition 17) that required submission to the Agency of a large scale project application (9NYCRR 572.6) for the entire "business park" prior to undertaking any other new commercial or industrial use within the "business park."
2. The overall project site, the Adirondack Regional Airport, is also subject to the following Agency permits: Permits P78-74 and P78-74A (Project 78-20), Permits P79-124, P79-124A and P79-124B (Project 79-25), Permit P79-352 (Project 79-372) and Permits 85-168, 85-168A, 85-168B, 85-185, 86-1023, 88-346, 90-58, 92-155,

93-312 and 93-312A. This property was also subject to Agency Map Amendment MA89-2. The airport serves as the regional airport for large areas of the Adirondack Park; the above Agency determinations have included such projects as additional hangars and other airport related facilities.

3. There are currently two industrial/commercial buildings along Fay Brook Drive, located south of the Business Park. The first building, on the west side of the road and close to Route 186, was constructed as an incubator building, intended to assist in the development of new private enterprises in the region. The incubator building was previously used by BGX and Rainbow Technologies, among other businesses. It is now fully owned and operated by the Adirondack Arc, which uses it as office and meeting space, as well as warehouse storage of records. The second building along Fay Brook Drive is on the western side of the road, at the north end just before the hammerhead. The building houses Bionique Laboratories, an actively operating private enterprise in a one-story 9,300 square foot building constructed on a 4.956 acre parcel to house a commercial testing laboratory, pursuant to Agency Permit 98-140 issued August 18, 1998.

Existing Environmental Setting

4. The 1,240+-acre Business Park is primarily forested with a mixture of deciduous and coniferous trees and shrubs, and is located east and south of the Adirondack Regional Airport. Selective logging was conducted a few years ago. Prior to the logging, the roadways proposed for the Business Park were flagged, and then cut and used for the main skid roads. Additionally, Lot 2 was cleared and used as the log landing.
5. The Business Park site is flanked on the east and west by class "2" wetlands consisting of conifer swamp/shrub swamp/emergent marsh wetland complexes. No wetland impacts are anticipated as a result of the development of the project.
6. Other than wetlands, there are no statutory critical environmental areas on or immediately adjacent to the project site. There are no designated river areas, or designated regional vistas on or immediately adjacent to the project site.

Projected Remaining Building Density

7. There is no maximum principal building potential limit for lands designated as Industrial Use.

Other Permits and Approvals

8. The Town of Harrietstown Planning Board approved the subdivision on September 14, 2007.
9. By letter from the New York State Department of Environmental Conservation (NYSDEC) dated December 17, 2001, a Notice of Intent (NOI) pursuant to NYSDEC's State Pollutant Discharge Elimination System (SPDES) permit for stormwater generation during construction activities will need to be submitted to DEC prior to the start of construction.
10. By letter dated March 13, 2000, the New York State Department of Transportation (NYSDOT) noted that sight distance at the intersection of Fay Brook Road at the intersection with NY route 186 would be improved by some management of vegetation. The vegetation management plan has been undertaken.
11. The New York State Department of Health (NYSDOH) has stated that Realty Subdivision approval is not required for the first phase development of the seven shovel-ready sites.

Public Notice and Comment

12. The Agency notified all adjoining landowners and those parties as statutorily required by Section 809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. No comment letters have been received.

Economic/Fiscal Factors

13. The Harrietstown Business Park is expected to accommodate a wide range of industrial and commercial activities including manufacturing and assembly, warehousing/distribution, research and development and offices. These uses are defined in the "Declaration of Covenants and Restrictions" that was submitted as part of the permit application.
14. The Harrietstown Business Park is a "Build Now-NY" site designated by the State of New York for special planning and marketing assistance. Build Now-NY site designation was the result of a competitive process sponsored by the NYS Department of Economic Development [Empire State Development (ESD)] and the Governor's Office of Regulatory Reform (GORR). Designation as a Build Now-NY site provides the applicants with funding for site planning and provides enhanced marketing through a partnership with ESD. The goal of this competitive program is to identify highly marketable economic development locations and sites that

are capable of being "shovel ready," that is, able to easily accommodate the development of individual businesses with either minimal or fast-tracked permitting once the initial permits for the Business Park and its infrastructure are granted.

15. The Village of Saranac Lake Board of Trustees on April 25, 2010 authorized the formation of a local development corporation (LDC) to assist in bringing jobs to the community. An LDC is a nonprofit corporation that can acquire property from a municipality, and sell or lease that property to private companies. It has more latitude than a municipality in real estate transactions: this flexibility can help spur development. The LDC may play a role in the development of the Business Park.

PROJECT IMPACTS

16. The Declaration of Covenants and Restrictions provides a comprehensive list of permitted and prohibited uses, and specific operational, architectural and site planning standards designed to mitigate potential on- and off-site impacts. The Declaration of Covenants also identifies prohibited uses which could present substantial hazards or could be considered objectionable by other businesses in the Business Park. As stated in the Declaration, prohibited uses include, but are not limited to: manufacturing of fertilizer, glue, fireworks, explosives; manufacturing of hazardous and/or toxic chemicals; smelting of metals; stone or gravel crushing; rendering of animal fats and similar substances; auto wrecking yards; and scrap metal storage. Subsequent review of individual uses and site plans by the Town of Harrietstown, the Agency, and other agencies will ensure thorough review and a project design that will prevent undue adverse impacts on the resources of the Adirondack Park.

Wetlands and Habitat

17. No new land use or development will occur in or within 50 feet of wetlands or Fay Brook. Business Park lots have been sited and configured so as to avoid further subdivision of wetlands and to avoid any new land use or development or disturbance within 50 feet of the jurisdictional wetlands. By letter dated August 25, 1999 from NYSDEC Natural Heritage Program, there are no known occurrences of rare or state-listed animals and plants, of significant natural communities, or of other significant habitats, on or in the immediate vicinity of the site.

Traffic

18. A Traffic Impact Study prepared by Creighton Manning Engineering, LLP, was prepared in 2000. This traffic study was updated in the March 30, 2011 Engineering Report prepared by North Woods

Engineering PLLC. The current project design involves a total of 120,000 square feet for Phase I and 555,000 square feet for Phase II at full build-out. The report concludes that all approaches of the NY Route 186 and site driveway intersection are acceptable in their current state. Two pine trees were removed at the western side of the intersection to improve sight distance for a right hand turn leaving Fay Brook Drive.

Groundwater and Surface Water Resources

19. The Business Park is situated over a significant aquifer, therefore, the Town of Harrietstown adopted an Industrial Business Park Aquifer Protection Policy (dated June 18, 1998). The Policy sets requirements for any non-sanitary waste discharges to ensure that the aquifer remains free from contamination. No conflicts between uses in the business Park and the requirements in the Aquifer Protection Policy are anticipated, however, the draft Declarations of Covenants and Restrictions addresses this potential by requiring that businesses that anticipate a non-sanitary waste discharge prepare and submit a detailed waste stream analysis report to appropriate regulatory agencies for review.

Aesthetics/ Protection Of Adjacent Land Uses

20. The separation distances between the Business Park and nearby residences are substantial. The Business Park covenants include provisions for site planning and operational standards to control potential environmental impacts and to make the Business Park environmentally compatible, aesthetically attractive and developed in a manner that is a benefit to the park occupants and citizens of the town and county. Subsequent review of individual site plans and operations for each business in the park will ensure that no undue adverse impact to nearby land uses occurs, including but not limited to noise, traffic, capacity of municipal services and open space.

Historic Sites or Structures

21. By letter dated July 12, 1999, the NYS Office of Parks, Recreation and Historic Preservation has stated that the project will have no impact upon cultural resources in or eligible for inclusion in the State and National Registers of Historic Places. Therefore, the project as proposed and authorized herein will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR Part 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

1950
1951
1952
1953
1954
1955
1956
1957
1958
1959
1960
1961
1962
1963
1964
1965
1966
1967
1968
1969
1970
1971
1972
1973
1974
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
2023
2024
2025

