

**STAFF DRAFT APRIL 11, 2012 - NOT APPROVED BY AGENCY  
THIS PERMIT AMENDS PERMIT P2010-154 ISSUED March 21, 2011**

 <p>P.O. Box 99 • Ray Brook, New York 12977 (518) 891-4050 www.apa.ny.gov</p>	<p><b>APA Project Permit 2010-154A</b></p>
<p>In the Matter of the Application of</p> <p><b>NEW YORK RSA NO. 2 CELLULAR PARTNERSHIP d/b/a VERIZON WIRELESS, LAKE PLACID VACATION CORPORATION, and VERIZON NEW YORK, INC.</b></p> <p>for a permit pursuant to §809 of the Adirondack Park Agency Act</p>	<p>Date Issued:</p> <p>To the County Clerk: This permit must be recorded on or before _____. Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. New York RSA No. 2 Cellular Partnership d/b/a Verizon Wireless</b></li><li><b>2. Lake Placid Vacation Corporation</b></li><li><b>3. Verizon New York, Inc.</b></li></ol>

**SUMMARY AND AUTHORIZATION**

New York RSA No. 2 Cellular Partnership d/b/a Verizon Wireless and Lake Placid Vacation Corporation are granted an amended permit, on conditions, authorizing changes in the number and timing of rooftop gable construction for a previously authorized cellular antenna project in an area classified Hamlet by the Official Adirondack Park Land Use and Development Plan Map in the Village of Lake Placid and Town of North Elba, Essex County.

The amended project may not be undertaken, and no transfer deed shall be recorded, until this amended permit is recorded in the Essex County Clerk's Office. This amended permit shall expire unless so recorded on or before \_\_\_\_\_ 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 amended project shall not be further 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 amended project in existence when the antenna array, three new roof gables, equipment shelter, and associated equipment have been installed on the project site.

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, as originally proposed, consisted of new structures in excess of 40 feet in height (i.e., a telecommunications antenna array and roof facade), a Class A regional project requiring an Agency permit pursuant to §810(1)(a)(4) of the Adirondack Park Agency Act. Agency Permit 2005-52, which authorized renovations to the existing building and roof facade, was amended by Agency Permit 2010-154 to account for changes in the design and height of the roof facade as the result of the replacement of telecommunications equipment.

#### **PROJECT LOCATION**

The project site consists of three adjoining parcels totaling 8.94± acres and located on Olympic Drive in both the Village of Lake Placid and Town of North Elba, Essex County, in an area classified Hamlet by the Adirondack Park Land Use and Development Plan Map. The 8.94±-acre site is designated as Tax Map Parcel 42.0GK-1-4.1 (8.44± acres owned by the Lake Placid Vacation Corporation) and Tax Map Parcels 42.0GK-1-2 and 42.041-1-20 (0.50± acres owned by Verizon New York, Inc.). The Lake Placid Vacation Corporation owns 12 adjoining tax parcels in the Town of North Elba/Village of Lake Placid on lands classified Hamlet, including the one that is part of the project site, which total 30.55± acres.

#### **PROJECT DESCRIPTION AS PROPOSED**

The project as originally proposed is described in Permit 2010-154, which authorized the removal of two existing omni-directional antennas currently mounted on the roof of the Lake Placid Crowne Plaza Hotel & Golf Club and their replacement with a twelve-panel antenna array concealed behind four roof gables designed to blend with the building facade. The permit required all four roof gables to be constructed within 30 days of antenna installation.

The amendment request is to authorize the same four roof gables, but instead require only three roof gables and different construction timing, whereby the gable directly in front of the antenna array (the center gable facing Mirror Lake to the east) would be constructed within 30 days of the construction of the new antenna array, the two gables to either side of the antenna array would be constructed by October 15, 2012, and the fourth gable (facing Hillcrest Avenue to

the north) would be authorized but not required. The fourth gable would be subject to review by the Town of North Elba/Village of Lake Placid Joint Review Board.

The other change is that the one gable and mansard roof sections directly in front of the replacement Verizon Wireless antenna array will be constructed of radio frequency (RF) transparent materials while the other gables and mansard roof sections may be constructed of regular (i.e., steel and wood) materials or RF transparent materials. Visually, the gables will match in design, size, texture, and color.

The design, location, and heights of the roof gables and mansard roof have not changed since issuance of Agency Permit 2010-154. The plans referenced in this permit amendment as the official plans for the project post-date the plans referenced in the original permit, because they are the final/construction plans rather than the preliminary/conceptual plans.

The project is shown on a set of:

- engineering plans (14 sheets) titled "Lake Placid, Project# 2007267829, 1 Olympic Drive/12946," prepared by Costich Engineering of Rochester, NY, and last dated August 24, 2011;
- architectural plans (8 sheets) titled "Final Engineering, Verizon (NY2), Stealth Job # VZ11-00679W-33R0," prepared by Vector Engineers of Sandy, UT and Stealth of N. Charleston, SC, and last dated August 23, 2011.

Both sets of plans are stamped "Received, September 9, 2011, Adirondack Park Agency" and "Final Plans, Adirondack Park Agency, P2010-154A, April 10, 2012."

Reduced scale copies of three plan sheets are attached as part of this permit for easy reference: Zoning Detailed Plan (Sheet CC101) and Zoning Elevations (CA103) from the engineering plans and Assembly Details (Sheet S1) from the architectural plans. 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 AMENDED PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. All conditions in Permit 2010-154 remain in full force and effect unless specifically amended herein.

2. The amended project shall be undertaken as described in the request for an amended permit and the Project Description as Proposed herein, and in compliance with the Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the permit is a violation and may subject the applicants, successors and assigns to civil penalties and other legal proceedings, including modification, suspension or revocation of the permit.
3. This permit is binding on the applicants, all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of this permit and all the approved maps and plans referred to herein shall be furnished by the applicants to all contractors prior to undertaking the project, and to all subsequent owners or lessees of the project site prior to sale or lease. 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 2010-154 issued March 21, 2011 and Permit 2010-154A issued \_\_\_\_\_, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
4. 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.

#### **Visual/Open Space Impacts**

5. This condition replaces Condition 4 of Agency Permit 2010-154. The authorized antennas and support poles shall be concealed behind the three roof gables constructed in the location, of the dimensions, and of the design shown on the project plans. Any exposed antennas, cables, and appurtenances shall be painted to blend with the building and façade.
6. This condition and Condition 7, below, replaces Condition 6 of Agency Permit 2010-154. The three roof gables facing Mirror Lake to the east and the mansard roof between and next to them shall be installed by October 15, 2012. The center roof gable of the three, located directly in front of the Verizon Wireless antenna array authorized by Agency Permit 2010-154, and the adjoining mansard roof sections shall be installed prior to or within 30 days of the date that the stub tower, support poles, and antennas are installed. The steel base of the tower, equipment shelter,

generator, and any cables or ancillary equipment may be installed as soon as this permit amendment is recorded in the Essex County Clerk's Office.

7. This condition and Condition 6 above, replace Condition 6 of Agency Permit 2010-154. The fourth roof gable, facing Hillcrest Avenue to the north, is authorized by the original permit and this permit amendment. Its construction is not required by the Agency, but may be required by the Town of North Elba/Village of Lake Placid Joint Review Board after construction of the three roof gables facing Mirror Lake to the east.

#### **Legal Interests of Others**

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

#### **FINDINGS OF FACT**

Findings of Fact 1 through 34, which are contained in Agency Permit 2010-154 remain in effect. The permit was issued on March 21, 2011 and recorded on May 16, 2011 in the Essex County Clerk's Office in Book 88 of APA Permits at Page 232.

#### **Amendment Request**

35. By letter dated December 6, 2011, Verizon Wireless requested an amendment of Adirondack Park Agency Permit 2010-154, seeking a modification of Condition 6, which required all four roof gables to be constructed prior to or within 30 days of the installation of the Verizon Wireless stub tower, support poles, and antenna array. Verizon Wireless initially proposed that it would construct only the one gable directly in front of its antenna array (the center gable facing east) and that others (e.g., the Lake Placid Vacation Corporation and/or AT&T) would construct the remaining gables outside of the 30-day window.

#### **Other Regulatory Permits and Approvals**

36. At the March 7, 2012 meeting of the Town of North Elba/Village of Lake Placid Joint Review Board, the Board approved an amendment to their March 16, 2012 permit to Verizon Wireless. The motion voted on and approved unanimously was "to accept the

guarantee from Mr. Arthur Lussi of the Lake Placid Vacation Corporation that all three gables and the mansard roof connecting them will be installed by October 15, 2012." In the Board's discussion, they decided not to require installation of the fourth gable facing Hillcrest Avenue to the north by the same date. However, after the three gables facing Mirror Lake to the east are installed, the Board will review the need for the fourth Hillcrest Ave gable and "amend or delete" that one.

37. By letter dated April 2, 2012, Verizon Wireless modified its amendment request of Agency Permit 2010-154 to mirror the Joint Review Board's March 7, 2012 approval. This letter also stated that Verizon Wireless has no objection to an Agency Permit condition that requires Verizon Wireless to construct the gable located in front of its tower/antenna array within 30 days after the installation of the tower/antennas.
38. By letter dated November 30, 2011, Arthur Lussi for the Lake Placid Vacation Corporation requested an amendment of Adirondack Park Agency Permit 2010-154, also seeking a change to the timeframes for construction of the roof gables. In the minutes for the March 7, 2012 meeting of the Joint Review Board, Mr. Lussi guaranteed that all three gables facing Mirror Lake to the east would be constructed by October 15, 2012.
39. The Agency has not received any letters from Verizon New York, Inc., a co-applicant for the original permit, regarding the proposed amendments. However, the portion of the project involving Verizon New York's property (i.e., the location of the equipment shelter) is not affected by this amendment.

#### Visual Analysis

40. The visual analyses provided in the application for Agency Permit 2010-154 (referenced in Findings of Fact 27 and 28) were supplemented by a photo and simulation titled "Lake Placid Crowne Plaza, Photo - 05," prepared by Costich Engineering of Rochester, NY and dated March 2, 2012 (the existing conditions photo) and April 3, 2012 (the simulation of proposed conditions). The photo and simulation show how the amended project as authorized herein, wherein only three roof gables are required, would appear from Hillcrest Avenue looking south.
41. As a result of Agency review of the project based upon the pertinent development considerations set forth in § 805(4) of the Adirondack Park Agency Act and applicable regulations, it has been determined that the project will not result in any undue adverse impacts on the Park's visual and open space resources because the proposed antennas are co-located on a pre-

existing structure, within a land use area classified as Hamlet on the Adirondack Park Land Use and Development Plan Map, are compatible with the context of an intensively developed area (i.e., the Village of Lake Placid), and the antennas will be concealed by roof gables designed to complement the architecture of the building.

#### **Towers Policy**

42. The proposed antennas are consistent with the Agency's "Towers Policy" because the antennas will be substantially invisible as seen from off-site public viewing points. Substantial invisibility is achieved, for this project, as described in Finding of Fact 33 in Agency Permit 2010-154.
43. The requested amendment does not involve a material change in permit conditions, the applicable law, environmental conditions or technology since the issuance of Permit 2010-154, therefore, the request is being processed pursuant to § 809(8)(b)(1) of the Adirondack Park Agency Act.

#### **CONCLUSIONS OF LAW**

The Agency has considered all statutory and regulatory criteria for project approval as set forth in: § 809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574. The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

