

STAFF DRAFT – JUNE 27, 2016 – NOT APPROVED BY AGENCY
THIS IS A TWO-SIDED DOCUMENT

 <p>Adirondack Park Agency</p> <p>P.O. Box 99 • Ray Brook, New York 12977 Tel: (518) 891-4050 Fax: (518)891-3938 www.apa.ny.gov</p>	<p>APA Project Permit 2016-0046</p>
<p>In the Matter of the Application of R.L. VALLEE, INC., Permittee</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 1. R.L. Vallee, Inc.</p>

SUMMARY AND AUTHORIZATION

This permit authorizes a greater than 25 percent expansion of an existing commercial use in an area classified Moderate Intensity Use 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 _____, 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 four years from the date the permit is recorded. The Agency will consider the project in existence when the convenience store/gas station structure has been constructed.

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

This permit does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property. Nothing contained in this permit shall be construed to satisfy any legal

obligations of the permittee to 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 1.3±-acre parcel of land located on the south side of State Route 86 and the east side of Ray Brook Road (a/k/a County Route 32) in the Town of North Elba, Essex County, in an area classified Moderate Intensity Use on the Adirondack Park Land Use and Development Plan Map. The site is identified on Town of North Elba Tax Map Section 41.007, Block 1 as Parcel 10, and is described in a deed from Sandri Realty, Inc. to R.L. Vallee, Inc., dated May 1, 2015, and recorded May 5, 2015 in the Essex County Clerk's Office in Book 1799 at Page 216 as Instrument Number 2015-1620.

PROJECT DESCRIPTION

The project as conditionally approved herein involves: removal of an existing convenience store/gas station (1,520 sq ft store plus a 720 sq ft detached gas canopy) and three existing residential cabins (1,920 sq ft total) and their replacement with a new convenience store/gas station (9,010 sq ft with attached gas canopy plus 865 sq ft detached diesel canopy), as well as expansion of the number of fuel pumps and parking spaces and installation of a new on-site wastewater treatment system.

The project is shown on the following 25 drawings entitled "Proposed Site Improvements, Ray Brook Sunoco, North Elba, NY," prepared by Civil Engineering Associates, Inc. of South Burlington, VT, and last dated as labeled below ("Project Plans"). The drawings are titled as follows:

- R1.0, Proposed Plan Rendering (May 25, 2016);
- C1.0, Proposed Conditions Site Plan (May 25, 2016);
- C1.0A, Proposed Grading Plan (May 25, 2016);
- C1.0B, Proposed Utility Plan (May 25, 2016);
- C1.0C, Erosion Control Plan (May 25, 2016);
- C1.0D, Dimension Plan (May 25, 2016);
- C1.0E, Turning Movement Plan (April 15, 2016);
- C1.1, Existing Conditions Plan (April 15, 2016);
- C1.1A, Demolition Plan (May 25, 2016);
- C2.0, Site Details (April 15, 2016);
- C2.1, Site Details (April 15, 2016);
- C3.0, Erosion Control Specifications & Details (May 25, 2016);
- C4.0, Site Specifications (April 29, 2016);
- C4.1, Site Specifications (April 15, 2016);
- C4.2, Site Specifications (April 15, 2016);
- DA.1, Existing Drainage Area Map (April 29, 2016);

- DA.2, Proposed Drainage Area Map (April 29, 2016);
- L1.0, Proposed Planting Plan (May 25, 2016);
- L2.0, Proposed Lighting Plan (May 25, 2016);
- L3.0, Proposed Lighting Details (April 15, 2016);
- L4.0, Proposed Planting Details (April 15, 2016);
- SW.1, Proposed Stormwater Site Plan (April 29, 2016);
- SW.2, Proposed Stormwater Details (April 29, 2016);
- WW.1, Proposed Septic Site Plan (May 25, 2016); and
- WW.2, Proposed Septic Details (April 29, 2016).

The project is shown on architectural drawing entitled “Maplefields, Raybrook NY,” prepared by Antonio Leo Architect of Tuckahoe, NY, and last dated as labeled below (“Architectural Plans”):

- A-100.00, Floor Plan (February 5, 2016); and
- A-600.00, Elevations (March 21, 2016).

The project is detailed in a report titled “Town of North Elba Maplefields Stormwater Management Report,” prepared by Aaron J. Ovios, P.E. for Robert M. Sutherland, P.C., and dated April 22, 2016 (“Stormwater Report”).

The project is shown on an 8.5” x 11” sign plan entitled “Proposed Signage,” received by the Agency on June 2, 2016 (“Sign Plan”). It depicts a 15.5-foot-tall free-standing sign (33 square feet in area), an 18.5-foot-tall pole sign mounted above the free standing sign (14 square feet in area), and a building-mounted sign (27 square feet in area).

The above-referenced Project Plans, Architectural Plans, Stormwater Report, and Sign Plan are all stamped “Adirondack Park Agency Final Plans P2016-0046.”

A reduced-scale copy of drawing “C1.0, Proposed Conditions Site Plan,” of the Project Plans 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(2)(a)(20) of the Adirondack Park Agency Act [Executive Law, Article 27], because it is a greater than 25 percent expansion of an existing commercial use on Moderate Intensity Use lands.

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 ? County Clerk's Office.
2. This permit is binding on the permittee, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project, for as long as the commercial use remains on the site. Copies of this permit and Project Plans, Architectural Plans, Stormwater Report, and Sign Plan shall be furnished by the permittee to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee and/or any subsequent owner or lessee to all persons undertaking any development activities authorized herein.
3. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. 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 2016-0046, issued _____[DATE]_____, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

Development

Construction Location and Size

5. This permit authorizes the construction of a commercial use (i.e., a convenience store/gas station) in the location and dimensions shown and as depicted on the Project Plans and Architectural Plans. Any change to the location, dimensions, or other aspect of the commercial use shall require prior written Agency authorization.

Building Color

6. All exterior building materials, including roof, siding and trim, of the convenience store/gas station, diesel and gas canopies, and connector canopy shall be a dark shade of green, grey, or brown.

Outdoor Lighting

7. All outdoor lighting associated with the commercial use on the project site shall comply with drawings L2.0 and L3.0 (Proposed Lighting Plan and Details) of the Project Plans. Any change to this lighting shall require prior written Agency authorization.

8. When the commercial use is closed to the public, all outdoor canopy and free-standing (parking lot) lights shall be turned off and all indoor lighting shall be reduced to the maximum extent possible while still providing the minimum lighting needed for employee and building safety.

Signage

9. All signs associated with the commercial use on the project site shall comply with the location shown on the Project Plans and Architectural Plans and with the specifications and dimensions shown on the Sign Plan. Any change to the location, specifications, or dimensions of this signage shall require prior written Agency authorization.

Tree Cutting/Vegetation Removal

10. Outside of the “proposed edge of brush/woods” shown on the Project Plans, no 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 dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.

Plantings

11. All trees, shrubs, and landscaping depicted on drawings L1.0 and L4.0 (Proposed Planting Plan and Details) of the Project Plans shall be planted and maintained as described in the Planting Plan. Planting shall occur no later than the first spring or fall planting season after final grading related to the construction of the commercial use on the project site. Plantings that do not survive shall be replaced annually until established in a healthy growing condition.

Outside Storage

12. There shall be no outside storage of goods or materials, except as shown on the Project Plans (e.g., firewood rack, propane tank exchange rack, air dispenser, vacuum, dumpsters, picnic tables for patrons, etc.), without prior written Agency authorization.

Density

13. There shall be no principal buildings located on the project site other than the one commercial use principal building, expansion of which is authorized herein, and the three pre-existing tourist cabin principal buildings or any replacement structure for these structures as allowed by 9 NYCRR § 573.6.

Project Operations

Hours of Operation

14. The commercial use may operate year-round, 7 days a week.

Reports

15. 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.

Infrastructure

Wastewater

16. If installed within five years of the date of issuance of this permit, the on-site wastewater treatment system shall be constructed in conformance with the location and design shown on drawing WW.1 (Proposed Septic Site Plan) of the Project Plans. Construction of the system shall be supervised by a design professional (licensed Professional Engineer, Registered Architect, or exempt Licensed Surveyor). 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 Control

17. The project shall be undertaken in compliance with the Project Plans and Stormwater Report, including all stormwater and erosion control features and practices.

FINDINGS OF FACT

Background/Prior History

1. There was a convenience store/gas station on the project site on the May 22, 1973 enactment date of the Adirondack Park Land Use and Development Plan.
2. Agency Permit 91-78, issued July 18, 1991, authorized a greater than 25 percent expansion of a commercial use (i.e., what is now the existing convenience store/gas station). The existing convenience store/gas station has a footprint of

1,520± square feet, plus an unpermitted attached deck. The existing gas canopy has an area of 720± square feet. Agency Permit 91-78 authorized the existing commercial use to operate year-round from 6:00 a.m. to 12:00 p.m. (midnight), 7 days a week.

3. The project site also includes three existing tourist cabins with a combined footprint of 1,920± square feet, which were constructed prior to 1973. Each cabin is greater than 300 square feet in footprint, therefore, each cabin is a principal building as that term is defined in § 802(50) of the Adirondack Park Agency Act.

Project Site

Water and Wetland Resources

4. There are no water bodies on the project site or within 100 feet of the wastewater treatment system. There is a wetland in the southeast corner of the project site, and adjoining the site, as shown on the Project Plans. The wetland is a coniferous and shrub swamp with a value of 3 pursuant to 9 NYCRR Part 578. A vegetated buffer 10± to 30± feet in width will remain between a retaining wall located south of all site development and the wetland. The eastern swale and outfall for the underground stormwater chambers outlet at a point with a 50±-foot-wide vegetated buffer to the wetland.

Vegetation

5. Approximately half of the 1.3±-acre project site (the northern half) is already cleared for the existing commercial use. The expansion authorized herein will result in the clearing of an additional 0.10± acre (for installation of the wastewater treatment system and construction of the southeast corner of the convenience store) and the removal of 21 cedar trees that are surround the existing rental cabins to be removed.

Soils

6. There was no evidence of seasonal high ground water or bedrock to a depth of 72 inches in a deep-hole test pit located 12± feet from the absorption field. Soil borings indicate that the site consists of 90-95% coarse to fine sand and the water table was not found at a drilling depth of 20 feet.

Slopes

7. Existing slopes on the project site are generally less than 3 percent, with the exception of steep slopes near the southern and eastern property boundaries of approximately 15 to 50 percent, which slope downward to the wetland.

Historic Sites or Structures

8. There are no structures greater than 50 years old on or visible from the project site, and the site is not within an archeologically sensitive area as mapped by the Office of Parks, Recreation, and Historic Preservation.

Nearby Land Uses

9. The project site is bordered on the east and south by NY State lands designed as Intensive Use and on the west by commercial rental cabins. Properties across Ray Brook from the project site are residential, with single family dwellings. A State Office complex is across State Route 86 from the project site.
10. The site is located between the Hamlet of Lake Placid Village (approximately 3.8 miles east), and the Hamlets of Saranac Lake Village (approximately 1.9 miles west) and Ray Brook (approximately 0.9 miles west).
11. Land uses along State Route 86 in the area of the project site are a mixture of commercial uses, public uses, State Offices, residential uses and tourist accommodations, including: a veterinary office, retail store, building supply store, State office complex, seasonal restaurant with tourist accommodations, seasonal ice cream shop, State and Federal Correctional facilities, two car dealerships, golf course, US Post Office, state campground, and rental cabins. Much of the existing commercial and public use development was in place prior to the May 22, 1973 enactment date of the Adirondack Park Land Use and Development Plan, and/or redeveloped a site that had been improved by pre-existing commercial or public uses. The nearby post-1973 commercial and public uses were authorized by prior Agency permits.

Access and Traffic

12. Existing access to the project site is from State Route 86 and Ray Brook Road, and is not proposed to change. Traffic on those adjoining roads is not expected to change, since the commercial use is not a destination, but benefits from traffic that is already passing by.

Infrastructure

Water

13. The existing commercial use is connected to the municipal water supply, and the and the expanded commercial use authorized herein will also connect to the municipal water supply.

Wastewater

14. An on-site wastewater treatment system constructed as located and depicted on the Project Plans will comply with all applicable New York State Department of Health and Agency standards.

Stormwater Management

15. According to the Stormwater Report, the 1.3-acre project site will have an area of disturbance of 0.95 acres during the redevelopment of the site.

Public Notice and Comment

16. 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. No comments have been received.

Town and State Permitting

17. At the May 4, 216 meeting of the Joint Review Board (JRB) for the Town of North Elba and Village of Lake Placid, the JRB voted 5-1 to approve the project, with conditions.
18. The facility has valid a New York State Petroleum Bulk Storage Certificate (PBS #5-420409) dated February 1, 2016.
19. The proposal includes less than one acre of land disturbance (0.95± acres). However, the permittee's Stormwater Report evaluates stormwater and stormwater management for the Town of North Elba, and that report was reviewed by Agency staff as part of the review of this permit.

PROJECT IMPACTS

Visual

20. Requiring outdoor lighting to comply with the Proposed Lighting Plan (on drawings L2.0 and L3.0 of the Project Plans) will reduce nighttime light pollution (glare, light trespass and sky glow) and minimize the light cast toward State Route 86, Ray Brook Road, and adjoining property. When the commercial use is closed, requiring all outdoor canopy and free-standing lights to be turned off and all indoor lighting to be reduced to the maximum extent possible will also help to reduce nighttime light pollution (glare, light trespass and sky glow) and minimize the light cast toward State Route 86, Ray Brook Road, and adjoining property.
21. Requiring exterior building materials to be a dark shade of green, grey, or brown will minimize the visual impact of the expanded commercial use and help it to fit with the character of the State Route 86 travel corridor.

Habitat/Wetlands

22. Provided the development authorized herein is undertaken in the location depicted on the Project Plans, no vegetation is removed from outside the "proposed edge of brush/woods" shown on the Project Plans, and stormwater from the site is directed as shown on the Project Plans, then the vegetated buffer that remains between development and wetlands is adequate to ensure that the entire wetland will be preserved.
23. Requiring written authorization prior to any change in the authorized location of development and any future construction 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.

Soils/Surface Waters/Groundwater

24. Provided the wastewater treatment system is properly installed according to the location and design shown on the Project Plans, all erosion control measures are undertaken as shown on the Project Plans, and stormwater management features are installed and maintained as shown on the Project Plans and as described in the Stormwater Report, then both groundwater and surface water (wetlands) will be protected from erosion, sedimentation, and water quality degradation.

Historic Sites or Structures

25. 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

26. Complying with the Proposed Lighting Plan (on drawings L2.0 and L3.0 of the Project Plans) and the Proposed Planting Plan (on drawings L1.0 and L4.0 of the Project Plans), and restricting the locations and quantity of outside storage, will help to mitigate visual impacts of the development on the State Route 86 travel corridor and adjoining land uses.

CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act 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 Moderate Intensity Use land use area;
- c. will be consistent with the overall intensity guidelines for the Moderate Intensity Use land use area;
- d. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act; and
- 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.

PERMIT issued this day
of , 2016.

ADIRONDACK PARK AGENCY

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

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

On the day of in the year 2016, 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 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

REW:ADL:lb