

 <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p>	<p><b>APA Project Permit 2013-26</b></p>
<p>In the Matter of the Application of</p> <p><b>NATURAL HISTORY MUSEUM OF THE ADIRONDACKS</b></p> <p>for a permit pursuant to §809 of the Adirondack Park Agency Act and 9 NYCRR Part 577</p>	<p>Date Issued: <b>April 23, 2013</b></p>
	<p>To the County Clerk: This permit must be recorded on or before <b>June 24, 2013</b>. Please index this permit in the grantor index under the following names:</p> <p><b>1. Natural History Museum of the Adirondacks</b></p>

**SUMMARY AND AUTHORIZATION**

Natural History Museum of the Adirondacks is granted a permit, on conditions, authorizing a structure over 40 feet in height ("Wild Walk", a structure associated with the permitted Museum) and an open space recreational use (new educational/recreational connector trails) in an area classified Low Intensity Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Tupper Lake, Franklin County.

This project 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 June 24, 2013 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.

This 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 the entire foundation of the Wild Walk tower has been completed.

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 new structure accessory to the permitted public/semi-public building (the Museum), a structure over 40-feet in height and an open space recreational use (new educational/recreational connector trails) within ¼ mile of a designated recreational river, in a Low Intensity Use land use area, a Class A and B regional project requiring an Agency permit pursuant to Section 810 (1)(c)(5), (2)(b)(6) and (17) of the Adirondack Park Agency Act and a rivers project requiring an Agency permit pursuant to 9 NYCRR Section 577.4 (a) and Section 577.5.(c) (1). The project constitutes a material amendment to the original permit (P2002-24).

### **PROJECT SITE**

The project site is a 31±-acre parcel of land located on Hosley Avenue (County Route 44) in the Town of Tupper Lake, Franklin County, in an area classified Hamlet and Low Intensity Use on the Adirondack Park Land Use and Development Plan Map. It is identified on Town of Tupper Lake Tax Map Section 491, Block 6 as Parcel 31.3. The project site is described in a deed from The Board of Education, School District No. 1 to Natural History Museum of the Adirondacks dated August 2, 2000 which was recorded August 8, 2000 in the Franklin County Clerk's Office in Liber 755 of Deeds at Page 274.

### **PROJECT DESCRIPTION AS PROPOSED**

The project as proposed is a component of "Phase 3" development as described in Agency Permit 2002-24 and is a material amendment to that Permit, issued June 17, 2002, which authorized the overall development plan of the Museum. It is also a re-design of the "Skywalk Observation Tower" authorized by the Agency at their May, 2007 meeting as permit 2007-32. That project was never built and the permit has expired. The proposal is summarized as follows:

The project is the construction of an observation tower complex of steel and wood, to be known as the "Wild Walk". The 450± foot long, 56.5 foot tall<sup>1</sup> structure consists of an 8-foot wide elevated ramp supported by a series of 28 teepee-like structures comprised of several natural-wood poles joined at the top in a point and capped

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<sup>1</sup> Using the Agency's standard method for measuring structure height, the lowest point is natural grade at the southerly end of the tower and the highest point is the top of the capped pole at the northerly end of the structure, over 400 feet away. At any one location, the top of all but one pole tower will be no greater than 40 feet above grade as measured from the lowest point of existing or proposed grade to the highest point at the individual tower site. However, the Agency measures the height of the structure as a whole, not just any single portion of the structure.

with a metal cover. It is an open-air structure with no walls or roof, except for the Ubertwig element. Additional elements including a spider's web, and a simulated dead tree snag will be connected by 6 foot wide walkways and a swinging bridge. Each cluster of six pole tops will be capped with a metal cone treated with an acid wash for a patina green finish. There will be 84 poles and 14 cones. The poles are 16 inch diameter western red cedar which will be stained to blend in with surrounding tree trunks. The top of the structure will be, on average, five feet below the tree canopy within a 100 foot radius of the structure. The tallest individual tower will be 41.5 feet in height; the overall height of the structure is 57± feet. The foundation will be of poured concrete footers. The Wild Walk is designed to be handicap accessible (except the snag) with the northerly ramp entrance at natural grade, rising to 30 feet above grade at the southerly end. All lighting will be either contained inside enclosures or will be directed toward the ground. In addition, a silviculture plan is focused on gradually over decades, removing the non-native scotch pine trees and restoring the site with trees more characteristic of a native Adirondack forest.

- It will be located more than 400 feet from the Raquette River, 700± feet from the main Museum building, and 200± feet from the parking lot. It is sited in a wooded area having slopes of 8% or less, and will be no taller than the tree canopy in the immediate surrounding area. The structure will be handicap accessible, but will also contain a stairway at the southerly end to afford walk-through traffic flow. A locking gate at each entrance (ramp and stairs) is intended to prevent unauthorized access. Staging for construction will be within the confines of the paved parking area, immediately west of the building site.
- The Museum closes to the general public daily at 5:00 p.m. between Columbus Day and Memorial Day and at 6:00 p.m. during the summer months. Special evening programs will occur several times a month to permit experiences such as star gazing, nocturnal wildlife viewing and guided tours related to evening receptions. Wild Walk lighting will be operated manually and will be turned on only when necessary for safety and security purposes for the occasional evening programs. All evening programs will end by 11 p.m. with the lighting turned off by 11:30 p.m. after final maintenance procedures including securing and locking gates.
- Approximately 500 feet of new trail will connect the Wild Walk to the parking area and to the existing trail system.
- New electrical service will be installed underground to serve the tower. A drilled well will supply water to serve the structure for plant watering and cleaning purposes.
- A 22 page report entitled "Silvicultural Plan for the Skywalk Site, Natural History Museum of the Adirondacks", prepared by

James Cronn, Certified Forester, and dated January 4, 2012 is a part of the application. The report outlines strategies for conversion of the predominantly non-native scotch pine forest (*Pinus sylvestris*) on the project site to a more characteristic native Adirondack forest.

- A total of 74 trees have been or will be cut and several others will be pruned or limbed. The trees to be cut range in size from 2 to 20 inch diameter at breast height (dbh) and are located in the immediate vicinity of the observation tower. Most are in the 6 to 12 inch dbh range.
- To protect the trees and shrubs immediately surrounding the tower from damage during construction, a construction barrier fence is proposed to be installed around the perimeter of the tower. The fence will be 5 to 15 feet from the foundation, except for the areas designated as the 10 foot wide access road and the 12 foot wide truck turn around.
- A plan to revegetate the site with a wide variety of trees, shrubs and ground cover to attract birds and wildlife is detailed on Sheet L-2 of the plans. It indicates that 71 trees and 134 shrubs would be planted and a wildlife food mix and grasses would be used as a ground cover.
- A proposal to remove intact portions of the forest floor, including topsoil, living plants and rootmass, to be stored elsewhere on the property, maintained, and replaced following the proposed two year construction period.

The project is illustrated by twenty eight (28) sheets of plans (T-1, L-1, L-2, A-10, A-20 A & B, A-21 through A-29, S-20, S-20A, S-21, E-0.0, E-1.0, E-2.0, E-3.0, P-0.0, P-1.0 through P5.0) prepared by Hellmuth, Obata + Kassabaum, P.C. ("HOK") entitled, "The Natural History Museum of the Adirondacks, The Wild Walk" with a latest issue date of February 8, 2013 and received at the Agency on February 11, 2013.

Reduced-scale copies of sheets A-21, L-2 are attached as a 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 project 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 applicant, successors and assigns to civil penalties and other legal proceedings, including modification, suspension or revocation of the permit.

2. This permit is binding on the applicant(s), 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 the site plan maps referred to herein shall be furnished by the applicant to all subsequent owners or lessees of the project site prior to sale or lease, and by the applicant or any subsequent owner or lessee undertaking construction to any contractors undertaking any portion of this project. 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 2013-26 issued April 23, 2013, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
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.

#### **Building Location and Size**

4. This permit authorizes the construction of the 450± foot long, Wild Walk structure in the location shown on the project plans. The entire Wild Walk shall not exceed fifty seven (57) feet in height. The height shall be measured from the highest point on the structure to the lowest point of existing grade or finished grade, whichever is lower. No portion of the individual towers described in the project proposal or any appurtenances such as flags, shall be greater than 42 feet above grade as measured from the lowest point of existing or proposed grade to the highest point at the individual tower site.

#### **Structure Color**

5. All exterior building materials of the structure shall be as proposed on the plans. The metal cones capping the tops of the structural poles shall be acid washed as proposed to result in a non-reflective green patina finish. The structural poles shall be stained a dark shade of brown, as proposed.

### Outdoor Lighting

6. All new outdoor lights shall direct light downward and not into the sky. The fixtures shall be oriented so as to not cast light to any off-site location including adjoining properties and the river. No nighttime lighting shall operate after all formal programs have ended for the day, and in no case shall outdoor lighting be employed after 11:30 p.m.

### Delineation of Limits of Disturbance

7. Prior to undertaking the project including any earth disturbance, tree limbing or cutting, a construction barrier fence shall be installed around the perimeter of the designated building area as shown on the plans cited herein. This barrier shall be of sufficient size and strength to assure vehicles and construction materials do not travel outside the designated limits of disturbance. The fence shall be maintained in working order and not be removed until all construction and site cleanup activities are completed and vehicles are permanently prohibited from the area. The purpose is to protect existing vegetation to remain that is necessary to screen the structure and provide habitat for birds and other wildlife.

### Site Revegetation

8. The planting plan as proposed and detailed on Sheet L-2 of the plans shall be undertaken in the spring or fall immediately following final grading of the construction site. Any trees or shrubs which do not survive or become diseased shall be replaced annually until such time as all of the trees and shrubs have been established in a healthy growing condition.
9. Forest management activities outside the approved limits of clearing shall use the "Gradual Conversion" approach described on page 13 of the submitted document entitled, "Silvicultural Plan for the Skywalk Site, Natural History Museum of the Adirondacks", prepared by James Cronn, Certified Forester, and dated January 4, 2012. Individual or small group selection methodologies shall be employed to achieve a gradual conversion of the Scotch pine forest to one more characteristic of native Northern Adirondack forests.

### Visual/Open Space Protection

10. No trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed without prior Agency review and approval except for those itemized and

identified for removal on Sheet L-1 of the plans for construction of the tower and footpaths and in compliance with Cronn's "Silvicultural Plan for the Skywalk Site, Natural History Museum of the Adirondacks". This condition shall not be deemed to prevent the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.

In the event of loss of trees that provide screening of the structure from off-site locations for any reason including natural causes, the Museum shall notify the Agency within 10 days of occurrence, and within 30 days submit a planting plan for Agency review to restore the screening effects.

#### **Wild, Scenic and Recreational Rivers Special Provisions**

11. All new land use and development on the site shall be subject to the standards and conditions of the Agency's river regulations (9 NYCRR Part 577).

#### **Agency Review of Future Subdivision and Development**

12. No further subdivision or land use and development shall occur on the property without first obtaining a jurisdictional determination and, if necessary, a new or amended permit from the Agency.

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

13. 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**

#### **Background/Prior History**

1. The proposal is a re-design and expansion of the "Skywalk Observation Tower" project which was the subject of APA Permit 2007-32 but was never undertaken. That permit has expired and is null and void.
2. Agency Permit 2002-24 was issued on June 17, 2002 and recorded on July 26, 2002 in the Franklin County Clerk's Office in Book 15 of APA Permits at Page 12. That permit authorized undertaking

construction of a public/semi-public building and construction of a trail system within the river area of the Raquette River, a designated recreational river. It also required the Museum to obtain subsequent Agency approvals prior to undertaking further site development. Since then, the Agency has issued permit amendments A through E and P2003-101 for a variety of improvements contemplated as elements of phased development under the original permit. In 2002, an observation tower was part of the overall plan, but the concept was for a 30-foot diameter, 700± square foot (footprint), 35 foot tall single-tower structure. Because the structure now proposed is many times larger, the proposal was deemed to constitute a "material amendment" under Section 809(8)(b)(2) of the APA Act.

As described in P2002-24 Phase 3 was to involve the following: *"NHMA plans to construct the observation tower, amphitheater, snowshoe lodge, finish the trail system and complete the planting"*.

Condition 15 of P2002-24 states in part: *"The tower shall be designed and located such that it is not visible to motorists traveling along NYS Route 3 or Route 30. Selective cutting, including within 100 feet of the river, will be allowed to provide limited, screened views to the Raquette River. Tower construction activities shall not begin until an Agency Letter of Approval or amended permit has been issued and received."*

Condition 22 of APA Permit 2002-24 requires all outdoor lighting to: *" ... be fully shielded to direct light downward and not into the sky and, where appropriate, placed on motion detector switches to temporarily light areas. Other than security lighting necessary for the Museum building, lights shall not be left on when the Museum is not open for business or administrative/volunteer staff are not present."*

### **Existing Environmental Setting**

3. Most of the buildings, infrastructure and trails contemplated by the master plan and P2002-24 have been constructed. The Museum opened to the public in 2005 with the grand opening in the summer of 2006. Within 1,500-2,000 feet of Hosley Ave., the site is flat and occupied by the buildings, pond, parking and other amenities of the Museum, located in the Hamlet land use area. The easterly third of the site, from the edge of the parking area to the river, is within the Low Intensity land use area, is generally wooded and undisturbed except for foot trails and boardwalk at the river's edge. Slopes in the area of the Observation Tower are slight, being less than 8%.



4. Soils consist of deep, excessively well drained sands and gravels. These soils keep the site in a "droughty" condition which affects the type and size of vegetation. Many of the trees are stunted and not fast-growing.
5. Woody vegetation consists of a variety of coniferous and deciduous trees and shrubs, dominated by pioneer species such as scotch pine and trembling aspen with eastern white pine, balsam fir, and paper birch scattered throughout. Ground cover consists of mosses, lichens and ferns with scattered blueberry. The tree canopy is, on average, 35 to 45 feet in height with some individual trees reaching 60 feet in height.

#### **Public Notice and Comment**

6. 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 comments on the project have been received.

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

7. The Town of Tupper Lake has issued a permit for the structure. The project is not otherwise subject to review by any local or state authority.

#### **Economic/Fiscal Factors**

8. According to a 2011 report commissioned by the Wild Center and completed by the firm ConsultEcon, Inc., public attractions such as museums must re-invest to just stay competitive and maintain baseline visitation.
9. Over 65% of the Wild Center's patrons come from outside of the seven-county North Country region. According the Regional Office of Sustainable Tourism's 2011 Leisure Travel study, over 67% of visitors to the region are repeat visitors. With such a limited number of new visitors in the region, it is especially critical for the Wild Center to continually add new attractors to increase repeat visitation.
10. The Wild Center employs 38 full-time equivalent staff and up to 72 payroll positions per year; the 2011 payroll for the Wild Center was about \$1.5 million. For these jobs to be retained, the Center must expand its attraction base.
11. Wild Center analysis indicates that there is on average 72% more attendance at the facility during precipitation days rather than

clear sky days and as such the Wild Center is currently visited as a "rainy day" destination. The ConsultEcon report articulates that the proposed expansion would help to brand the Wild Center as both an indoor and outdoor destination and provide the center with an "iconic" image for marketing the facility.

12. ConsultEcon studies of the local and regional market, the success of similar projects, and competitive Adirondack products, leads to a projection that the Wild Walk will help to increase overall Wild Center visitation during the Wild Walk's first year of operation by 20% and maintain a 3%-5% increase over the existing Wild Center baseline five years after construction.
13. According to research performed for the Northern New York Travel and Tourism Research Center of SUNY Potsdam by the firm Davidson-Peterson Associates, the average per visit expenditure for visitors to Franklin County is \$226/visitor. Based upon ConsultEcon's projections and the 65% out-of-area visitor user ship of the Wild Center, it can be expected that the new Wild Walk will help to generate over \$56,600,000 in consumer spending in the local economy over the project's first five years.
14. During construction, the Project Sponsor expects to employ 60 part-time workers. The total construction costs for the project are expected to be \$4,022,200.
15. The Project Sponsor expects to employ an additional two full-time employees upon conclusion of the project.
16. New York State has committed to funding \$1 million of the project as a North Country Regional Economic Development Council Priority Project.
17. In 2011, The Wild Center spent \$1.3 million in expenditures to over 300 businesses and vendors across New York State. Of those expenditures, over \$700,000 was spent in Adirondack counties.

#### **PROJECT IMPACTS**

##### **Wetlands and Designated Recreational River**

18. No new land use or development subject to this permit is proposed to be within 150 feet of the Raquette River, and none will involve or impact wetlands which are located along the shoreline.

### **Land Resources**

19. The Wild Walk will be located in a slightly-sloping wooded area between the parking lot and the top of the steep slope leading down to the river shore. The soils are deep, excessively-well drained sands. Excessive disturbance to the ground and trees adjacent to the structure could result in loss of ground cover species and increase site erosion. Limiting earth disturbance with installation of a construction barrier fence is necessary to prevent undue impacts.
20. Provided that the approved cutting and planting plan are implemented as proposed, and forest management activities undertaken outside the approved limits of clearing follow the "Gradual Conversion" plan as described in the submitted document entitled, "Silvicultural Plan for the Skywalk Site, Natural History Museum of the Adirondacks", visual impacts to onsite and offsite locations will be minimized.

### **Wildlife Resources**

21. The educational goal of the Wild Walk is to provide access to the tree canopy for visitors of all physical abilities. The intent is to view perching birds and the night sky as well as to provide interactive experiential learning opportunities for children. The planting of ground cover, shrubs and trees is proposed to enhance the wildlife appeal and attract a wide variety of birds and small mammals within sight range of the public. It may be a number of years before the Wild Walk is fully effective in attracting wildlife given the amount of clearing and small size of the trees and shrubs to be planted.

### **Open Space/Aesthetics**

22. The Museum closes at 5:00 p.m. daily (6 p.m. in the summer) except for special programs during off-hours. However, uncontrolled nighttime lighting of site facilities when the Museum is not open could contribute to nighttime light pollution and sky glow. Limiting the use of nighttime lighting, directing light downward and careful placement of light fixtures as proposed would minimize nighttime light pollution.
23. A visual assessment was undertaken by HOK and Museum staff for project 2007-32 which involved an overall structure height of 57.5 feet and the tallest individual tower of 40 feet. The overall structure height subject of the instant permit is 57± feet with the tallest individual tower being 41.5 feet in height. The assessment concluded that the structure may be visible for a

short distance to travelers on Dugal Road, 1¼ mile to the north of the site. Dugal Road is a Town-maintained road of Rt. 3 developed by scattered residences. The viewshed from this perspective is not pristine. Contained within the same viewshed from that perspective are the four 70-foot tall light stanchions on the football field at Tupper Lake's L.P. Quinn elementary school, adjoining the project site. The structure will also be visible from the summit of Mt. Morris, and the top 1/3 of Big Tupper Ski Center (not currently operating) approximately 4 miles distant. The dark color of the structure will help it blend into the trees and ground cover. The Wild Walk as seen from these perspectives would also include the museum building, the high school, the village water tower and Sunmount Developmental Center and other buildings in and around the Village. A glimpse of the structure might be possible from the Oxbow of Raquette River, during the winter months only.

Given that the 2007 visual assessment was conducted for a structure of similar height to that subject of the instant permit, its conclusions are still relevant.

24. The vegetation supported by the sandy soils consists of stunted scotch pine, red pine, balsam fir, paper birch, trembling aspen, and black cherry. Plant variety and size is defined in this area by the droughty conditions. Excessive disturbance to the ground and existing trees to remain adjacent to the structure will result in loss of understory and canopy vegetation which could cause the portion of the structure to be visible from off-site public viewpoints such as the Raquette River & NYS Route 3, as well as compromising the programmatic goals of the Wild Walk. Therefore, measures to prevent construction-phase damage and assure survival of the vegetation and new plantings is necessary.
25. Five of the six individual/clustered tower structures is approximately 40 feet in height, with tower six and the raptors nest being approximately 41.5 feet in height. The pedestrian ramp supported by the towers begins at grade and, over a lineal distance of approximately 450 feet, rises in elevation to 30 feet above grade. Along this entire distance, the supporting tower structures are the same height, regardless of the elevation of the ramp.

#### **Operational Issues Affecting Nearby Land Uses**

26. An observation tower was stated to be an integral element of the previously-approved Natural History Museum development. Any potential operational or programmatic impacts to adjoining resulting from the Museum, including use of an observation tower, were evaluated during review of P2002-24 and 2007-32. This element will not increase any potential operational or

programmatic impacts because it is no closer to the property boundaries than existing trails and other facilities.

### **Historic Sites or Structures**

27. The project site does not contain any pre-existing buildings and the core development area of the site had been previously disturbed by sand and gravel extraction. As such, 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 Section 426.2 for the purposes of implementing Section 14.09 of the New York State Historic Preservation Act of 1980.

### **CONCLUSIONS OF LAW**

The Agency has considered all statutory and regulatory criteria for project approval as set forth in Section 809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and Section 15-2709 of the NYS Wild, Scenic and Recreational Rivers System Act (ECL, Article 15, Title 27) and 9 NYCRR Section 577.8. 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.

PERMIT issued this            day  
of                                , 2013

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 2013, 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:SBM:MJG:mlr