


STAFF DRAFT 5/1/2014 - NOT APPROVED BY THE AGENCY  
THIS IS A TWO-SIDED DOCUMENT

 <p>NEW YORK STATE <b>Adirondack</b> parkagency P.O. Box 99 • Ray Brook, New York 12977 (518) 891-4050 www.apa.ny.gov</p>	<p><b>APA Project Permit 2014-14</b></p>
<p>In the Matter of the Application of</p> <p><b>1016 SARANAC PROPERTIES, LLC and CHARLES H. DUFFY</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. 1016 Saranac Properties, LLC</b></li><li><b>2. Charles H. Duffy</b></li></ol>

**SUMMARY AND AUTHORIZATION**

1016 Saranac Properties, LLC d/b/a High Peaks Distributing, LLC ("Project Sponsor") is granted a permit, on conditions, authorizing a greater than 25 percent expansion of a commercial warehouse structure in an area classified Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of St. Armand, Essex County.

This project may not be undertaken, and no transfer deed shall be recorded, until this permit is recorded in the Essex County Clerk's Office. This 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.

This 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 foundation and roof of the expansion have been constructed.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the Project Sponsor 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 greater than 25 percent expansion of a commercial use (warehouse structure) within one-quarter mile of the Saranac River, which is a designated recreational river pursuant to the NYS Wild, Scenic, and Recreational River System Act. The project is, therefore, a Class A regional project requiring an Agency permit pursuant to §810(1)(d)(20) of the Adirondack Park Agency Act and a rivers project requiring an Agency permit pursuant to 9 NYCRR Sections 577.4(a) and 577.5(c)(1).

### **PROJECT SITE**

The project site is a 15.5±-acre parcel of land located on the east side of NY State Route 3 and the west side of the Saranac River in the Town of St. Armand, Essex County, in an area classified Rural Use on the Adirondack Park Land Use and Development Plan Map. It is identified on Town of St. Armand Tax Map Section 23.003, Block 1 as Parcel 12.2 and referred to herein as the "Warehouse Parcel." The project site is described in a deed from Judith R. Scammell and Donald G. Scammell to 1016 Saranac Properties, LLC dated April 26, 2011 and recorded April 29, 2011 in the Essex County Clerk's Office in Liber 1668 of Deeds at Page 172 as Instrument NO. 2011-1819.

The project site also includes the Rural Use portion (27.9± acres) of a 30.1±-acre parcel of land, for the sole purpose of calculating and allocating building density, located on the east side of NY State Route 3 and the west side of the Saranac River in the Town of St. Armand, Essex County, in an area classified Rural Use on the Adirondack Park Land Use and Development Plan Map. It is identified on Town of St. Armand Tax Map Section 23.001, Block 1 as Parcel 26.000 and described in a deed from Citibank, N.A. to Charles H. Duffy dated June 18, 2007 and recorded June 19, 2007 in Liber 1539 of Deeds at Page 196 as Instrument No. 2007-00003452 (the "Duffy Parcel"). The project site does not include the Resource Management portion (2.2± acres) of the Duffy Parcel, which has no road frontage and is on the east side of the Saranac River.

### **PROJECT DESCRIPTION AS PROPOSED**

The project as proposed is summarized as follows: a greater than 25 percent expansion of a commercial use warehouse structure (currently 19,950 square feet in footprint) to increase storage space and employment. The proposed expansion is 92 feet x 140 feet (12,880

square feet) in footprint. The resulting total footprint will be 32,830 square feet. The height of the existing warehouse is 27 feet. The height of the proposed expansion will be 26 feet.

The exterior walls of the warehouse expansion will be Butler® Shadowwall™ metal siding in the color "Cool Desert Beige," with trim and gutters in the same color. The exterior of the existing warehouse will be re-painted to match the "Cool Desert Beige" color. The roof of the warehouse expansion will be a Butler® MR-24® metal roof of unpainted, zinc-coated aluminum. The roof of the existing warehouse will remain white.

The warehouse stores dry goods, beer, soda, wine, and spirits delivered by tractor trailer and 24-foot delivery trucks in an average of eight deliveries per day. The warehouse structure also contains an office. Proposed hours of operation are from 6:00 AM to 6:00 PM, Monday through Friday.

The project includes replacement of the existing on-site wastewater treatment system (consisting of a 1000 gallon septic tank, distribution box, and two 550 gallon dry wells) with a new system (consisting of a septic tank, dosing siphon, and absorption bed system). The old system will be decommissioned by filling the existing tank with inert material in place and backfilling around it. A natural boulder barricade will be installed to prevent vehicles from driving over the new absorption bed.

The total area of soil disturbance is expected to be 32,980 square feet, all located greater than 150 feet from the edge of right-of-way of State Route 3. A silt fence will be installed around this area for erosion and sediment control. The area to be disturbed includes an area of 3,500 square feet where vegetation will be removed and an existing 30%± slope will be re-graded to 3:1. A retaining wall, 70± feet in length and 1.5± to 6± feet in height, will be constructed at the base of the re-graded slope.

Infiltration trench is proposed beneath the roof eaves on the south side of the warehouse expansion.

Six new exterior lights are proposed on the expansion: LED 76 watt lights, cool white 5700k standard wall packs, each lighting 300 square feet with fixed cutoffs and glare shields.

No changes are proposed to the existing driveway, drilled well, overhead utilities, or roadside sign. No changes are proposed to 20 existing employee and seven delivery truck parking spaces, except that five of those delivery truck parking spaces will be inside the new expansion.

Pursuant to §809(10)(c) of the Adirondack Park Agency Act, the Duffy Parcel is considered part of the project site for the sole purpose of calculating and allocating building density. In order to comply with the applicable overall intensity guidelines for development on the Warehouse Parcel, one principal building opportunity will be transferred from the Duffy Parcel to the Warehouse Parcel. No new land use or development is proposed on the Duffy Parcel.

The project is shown on four stamped and sealed drawings titled "1016 Saranac Properties LLC, High Peaks Beverage," prepared by David W. Magurk, P.E., dated March 14, 2014, and last revised April 3, 2014. The drawings are titled as follows:

- Drawing L-1, Wastewater Treatment System Plan;
- Drawing L-2, Stormwater & Erosion Control Plan;
- Drawing D-1, Details (including septic tank, absorption bed, distribution box, dosing siphon, and retaining wall); and
- Drawing D-2, Details (including silt fence, construction entrance, and infiltration trench).

The project is also shown on three drawings titled "High Peaks Beverage Warehouse Addition," prepared by Charles A. Gaetano Construction Corporation and dated February 28, 2014. The drawings are titled as follows:

- A101, Proposed Floor Plan;
- A202, Building Sections; and
- A203, 3D Elevations.

A reduced-scale copy of Drawing L-1, the Wastewater Treatment System Plan, is attached as part of this permit for easy reference. The original, full-scale maps and plans referenced in this permit (the "project plans") are the official plans for the project.

### CONDITIONS

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

1. This permit supersedes and replaces Agency Permit 2008-276 and Agency Permit 75-178, which together authorized the existing commercial use warehouse structure on the Warehouse Parcel. The authorizations provided by those permits are continued through this permit.
2. The project shall be undertaken as described in the completed application, the Project Description as Proposed and Conditions herein. The Project Sponsor shall not undertake the project

until one principal building has been transferred from the Duffy Parcel to the Warehouse Parcel. In the case of conflict, the Conditions control. Failure to comply with the permit is a violation and may subject the Project Sponsor, 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 Project Sponsor, 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 project plans referred to herein shall be furnished by the Project Sponsor to all subsequent owners or lessees of the project site prior to sale or lease, and by the Project Sponsor 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 2014-14 issued \_\_\_\_\_, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
4. Charles H. Duffy, and his successors or assigns, shall provide a copy of this permit to all subsequent owners or lessees of the Duffy Parcel prior to sale or lease. All deeds conveying all or a portion of the Duffy Parcel shall contain references to this permit as follows: "The lands conveyed are subject to Condition 8 of Adirondack Park Agency Permit 2014-14 issued \_\_\_\_\_, the terms of which condition are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
5. 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**

6. This permit authorizes the 12,880-square-foot expansion of the existing commercial use warehouse structure on the Warehouse Parcel as shown on the project plans, plus an additional attached 170 square feet in footprint. The resulting warehouse structure shall not exceed a footprint of 33,000 square feet including all covered and uncovered attached porches, decks, exterior stairs and accessory structures. The warehouse structure shall not exceed 27 feet in height. The height shall be measured from the highest point on the structure, including the chimney, to the lowest point of existing grade or finished grade, whichever is lower.

**Projected Remaining Building Density**

7. Beyond the expansion authorized herein, no further expansion of the commercial use warehouse structure shall occur on the Warehouse Parcel without prior Agency review and approval in the form of a new or amended Agency permit. The warehouse structure shall not exceed a total of 33,000 square feet of floor space, unless the overall intensity guidelines of the Adirondack Park Agency Act or the Park Plan Map are amended, or pursuant to an Agency permit or an Agency-approved local land use program which provides for additional principal building density on the project site.
8. After transferring one principal building potential for the expansion of the warehouse structure as authorized herein, not more than two additional principal buildings shall be allowed on the Duffy Parcel unless the overall intensity guidelines of the Adirondack Park Agency Act or the Park Plan Map are amended, or pursuant to an Agency permit or an Agency-approved local land use program which provides for additional principal building density on the project site. Due to site limitations, the Agency makes no assurances the maximum development mathematically allowed can be approved.

**Wastewater Treatment**

9. On the Warehouse Parcel, the existing on-site wastewater treatment system shall be permanently decommissioned and the proposed system shall be constructed in complete conformity with the location and design shown on the project plans referenced herein. The construction of the system shall be under the supervision of a licensed 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 the Agency with written certification that the system was built in compliance with the approved plans.

**Slope Grading and Retaining Wall**

10. Prior to excavating or grading of the slope west of the proposed retaining wall, the grading limits, as depicted on the project plans, shall be marked on the ground with stakes, flags, or fence. Any excavation or grading outside those limits shall require prior Agency review and written approval.

**Erosion and Sediment Control**

11. Prior to undertaking any earthwork on the Warehouse Parcel, silt fence shall be properly installed as shown on the project plans. The silt fence shall be maintained throughout construction and shall not be removed until after all disturbed soils are stabilized to prevent siltation of the water resources. 1016 Saranac Properties, LLC, or their successors or assigns, shall inspect the fabric at least once a week and after every major storm event to ensure the fabric and supports are intact and to remove accumulated sediments so as to maintain the fence in a functional manner.

**Stormwater Management**

12. The proposed stormwater management infiltration practices shall be constructed as shown on the project plans.

**Visual/Open Space Protection**

13. On the Warehouse Parcel and within 150 feet of the edge of right-of-way of NY State Route 3, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed except (a) for an area not to exceed 40 feet in width for maintenance of the existing driveway and existing utility installations and (b) to maintain the existing limits of clearing surrounding the existing roadside sign. 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.

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

14. Inside and within 100 feet of the mean high water mark of the Saranac River, no trees or other vegetation shall be harvested, cut, culled, removed, thinned or otherwise disturbed without prior Agency review and approval. Forest management activities between 100 feet from the mean high water mark of the river and one-quarter mile shall meet the standards and conditions of the Agency's river regulations (9 NYCRR 577.6).

**Shoreline Setbacks**

15. All new buildings, decks and other structures (except for fences, poles, lean-tos, docks, boathouses, bridges, and stream improvement structures for fishery management purposes) shall be set back a minimum of 150 feet from the mean high water mark of the Saranac River.

**Commercial Operation**

16. On the Warehouse Parcel, 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 fixtures shall be oriented so as to not cast light toward NY State Route 3, the Saranac River, or adjoining property.
17. On the Warehouse Parcel, storage of all materials, goods, inventory, and waste shall be inside the warehouse structure or inside trucks.
18. On the Warehouse Parcel, no new commercial use or change to the existing commercial use (e.g., the addition of retail) shall occur on the project site without prior Agency review and written approval.

**Agency Review of Future Subdivision and Development**

19. On the Warehouse Parcel, no further subdivision or land use and development shall occur on the project site without first obtaining a jurisdictional determination and, if necessary, a permit from the Agency.

**FINDINGS OF FACT**

**Background/Prior History**

1. Agency Permit 2008-276 (issued November 3, 2009 and recorded December 29, 2009 in the Essex County Clerk's Office in Liber 83 at Page 89 as Instrument No. 5937-09) authorized, after-the-fact, expansion of the existing warehouse to its current footprint of 19,950 square feet and height of 27 feet.



2. Agency Permit 75-178 (Project 75-230), issued September 2, 1975 and recorded in the Essex County Clerk's Office on September 11, 1975 in APA Book 3 at Page 198, authorized construction of a 5,600-square-foot and 20-foot-tall commercial use warehouse structure on the Warehouse Parcel, which is the same structure subject to this permit.
3. Findings of Fact 4 through 7 in Agency Permit 2008-276 and Finding of Fact 6 in Agency Permit 75-178 further describe past land use and development, subdivision(s), and Agency determinations involving the Warehouse Parcel.
4. A signed agreement dated October 11, 2013 between Charles H. Duffy and 1016 Saranac Lake Properties, LLC is a purchase contract for one principal building right, as that term is defined by Section 50(f) of the Adirondack Park Agency Act.

#### **Principal Buildings**

5. Pursuant to §802(50)(f), "for a commercial use structure which involves the retail sale or rental or distribution of goods, services, or commodities, each eleven thousand square feet of floor space, or portion thereof, of such commercial use structure constitutes one principal building."

#### **Existing Development**

6. The on-site water supply consists of a drilled well greater than 100 feet from the on-site wastewater treatment system. There are three utility poles on the project site that bring utilities from NY State Route 3 to the warehouse. A 20±-foot wide paved driveway provides site access.
7. The existing sign location on the Warehouse Parcel, as shown on the project plans outside the highway right-of-way, complies with Appendix Q-3 of Agency Rules and Regulations and Agency Permit 2008-276.

#### **Existing Environmental Setting**

8. There are no wetlands or water bodies within 200 feet of the warehouse site and associated development. The warehouse is 650± feet from the mean high water mark of the Saranac River.

9. On November 26, 2013, three deep-hole test pits were investigated by David W. Magurk, PE in the location of the proposed on-site wastewater treatment system. The test pits revealed greater than 48 inches above the seasonal high ground water table and greater than 60 inches above bedrock in a location with an existing slope of 3% or less.
10. Existing slopes on the Warehouse Parcel range from zero to greater than 25 percent. Existing slopes are 8% in the location of existing development, 3% or less in the area of the proposed expansion, and 30±% in the area where re-grading is proposed (as described in the Project Description as Proposed).
11. There is natural vegetation, mostly conifer trees, on the Warehouse Parcel for a distance of 170± feet between the edge of right-of-way of NY State Route 3 and the existing development, except for a 40±-foot-wide opening for a 20±-foot-wide paved driveway. The undeveloped portions of the project site are forested with a mixed coniferous-northern hardwood forest.
12. The entire Warehouse Parcel is within one-quarter mile of the Saranac River, which is a designated recreational river pursuant to the NYS Wild, Scenic, and Recreational River System Act (9 NYCRR Part 577). The eastern boundary of the Warehouse Parcel has 700± feet of shoreline on the Saranac River. The shoulder of a small knoll separates the existing and proposed development from the Saranac River.
13. The area within 150 feet of the right-of-way of NY State Route 3 is designated a Critical Environmental Area pursuant to §810(1)(d)(1)(e) of the Adirondack Park Agency Act. The existing warehouse and expansion are located immediately east and outside of this CEA.
14. The area within 1/8 mile of state land classified wilderness, the McKenzie Mountain Wilderness Area, is designated a Critical Environmental Area pursuant to §810(1)(d)(1)(d). The existing warehouse and expansion are located immediately west and outside of this CEA.
15. The character of the area is a mix of industrial, commercial, residential, and open space uses. There is an Industrial Use land use area 500± feet to the south along NY State Route 3. From the project site and along Route 3, the Hamlet of Saranac Lake is 1.8± miles to the south and the Hamlet of Bloomingdale is 2.9± miles to the north.

**Public Notice and Comment**

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

**Other Regulatory Permits and Approvals**

17. As indicated on a Local Government Notice Form signed by the St. Armand Supervisor and received February 3, 2014, the Town does not have land use controls and therefore has not issued any decision on this project.

**Economic/Fiscal Factors**

18. High Peaks Distributing, LLC currently employs 15 full-time year-round staff, two part-time year-round staff, and two part-time seasonal staff at the facility. Expansion of the facility will help retain these existing jobs.
19. High Peaks Distributing, LLC projects to employ an additional five full-time workers and two part-time workers year-round as a result of this project. They also project to employ an additional two part-time workers seasonally. Total payroll at the facility upon completion is anticipated to be \$950,000.
20. High Peaks Distributing, LLC projects to employ 10 full-time and two part-time workers during the 12 week construction period. The average annual wage for an employee in the construction industry in Essex County in 2012 was \$41,464.
21. High Peaks Distributing, LLC anticipates \$1,000,000 in upgrades to the facility. It is anticipated that a significant portion of the project components will be taxed as real property.

**PROJECT IMPACTS**

**Water Resources**

22. On the Warehouse Parcel, provided the existing on-site wastewater treatment system is permanently decommissioned and the replacement on-site wastewater treatment system is properly installed in complete conformity with the plans authorized herein, then groundwater resources will be protected.

23. On the Warehouse Parcel, construction of the proposed stormwater management infiltration practices will further protect surface and groundwater resources.

#### **Navigable Shorelines**

24. Existing and proposed development on the Warehouse Parcel will not adversely impact the Saranac River because it is located 600± feet from the river and both forested land and the shoulder of a knoll are between the development and the river.

#### **Land Resources**

25. On the Warehouse Parcel, the location of existing and proposed development on gentle, stabilized slopes minimizes erosion and protects the project site's land resources. Requiring that the slope behind the proposed retaining wall be clearly marked prior to excavating or grading will help to limit the work area to that shown on the project plans. Requiring prior Agency review and written approval for any excavation or grading outside those limits will ensure that the nearby slopes and existing vegetation remains intact.
26. On the Warehouse Parcel, provided the silt fence is installed according to the project plans and Condition 11, then nearby land resources will be protected.

#### **Open Space/Aesthetics**

27. The location of the existing warehouse and the proposed expansion, combined with limitations on its floor space, height, lighting, use, and surrounding vegetative cutting will screen it from NY State Route 3 and preserve the existing character of the travel corridor.

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

28. Requiring downward-directed or hooded exterior lighting on the Warehouse Parcel will reduce nighttime light pollution (glare, light trespass, and sky glow) that would be visible from adjoining and surrounding properties, the NY State Route 3 corridor, and the Saranac River.
29. Requiring that materials, goods, inventory, and waste on the Warehouse Parcel are stored inside the warehouse structure or inside trucks will prevent the accumulation of items that may be visible from NY State Route 3 and/or become abandoned and constitute a waste disposal area.

**Historic Sites or Structures**

30. No structures greater than 50 years old are present on or visible from the project site. The project site is not within an archeologically sensitive area as identified on Office of Parks, Recreation, and Historic Preservation maps. 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 Section 426.2 for the purposes of implementing §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: §809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574; §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                            , 2014

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 2014, 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:PVC:mlr