

THIS IS A TWO-SIDED DOCUMENT



**Adirondack
Park Agency**

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APA Project Permit
2015-45

Date Issued: July 13, 2015

In the Matter of the Application of

VILLAGE OF TUPPER LAKE

for a permit pursuant to §809
of the Adirondack Park Agency Act

To the County Clerk: This permit
must be recorded on or before
September 11, 2015. Please
index this permit in the grantor
index under the following
names:

1. Village of Tupper Lake

SUMMARY AND AUTHORIZATION

This permit authorizes the construction of a tower 80.5 feet in height and the installation of five antennas on the tower, in an area classified Hamlet on the Adirondack Park Land Use and Development Plan Map in the Village of Tupper Lake, Franklin County.

This permit shall expire unless recorded in the Franklin County Clerk's Office on or September 11, 2015, in the names of all permittees 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 tower 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.

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.

AGENCY JURISDICTION

The project requires an Agency permit pursuant to Sections 809(2)(a) and 810(1)(a)(4) of the Adirondack Park Agency Act [Executive Law, Article 27], because it is a structure in excess of 40 feet in height on Hamlet lands.

PROJECT SITE

The project site is a 1.826± acre parcel of land located on the north side of Santa Clara Avenue, in the Village of Tupper Lake, Franklin County, in an area classified Hamlet on the Adirondack Park Land Use and Development Plan Map. It is identified on Franklin County Tax Map Section 490.35, Block 2 as Parcel 2.200. The project site is described in a deed from Tupper Lake Associates LLC to Village of Tupper Lake dated January 16, 2015 and recorded March 23, 2015 in the Franklin County Clerk's Office as Instrument No. 2015-1190.

PROJECT DESCRIPTION AS PROPOSED

The project as conditionally approved herein involves the construction of a self-supporting lattice tower 80.5 feet tall above ground level. The base of the tower is 2 feet 6 inches wide. The top of the tower is 1 foot 2 inches wide. Five antennas for emergency communications will be mounted to the tower at various heights. Four of the five antennas will be relocated from other towers in the village to this new tower. Two of the five antennas, a low band co-axial antenna and an omni antenna, will extend above the tower to an overall height of 92.5 feet above ground level. The tower will be constructed on the same property and immediately north of the Village of Tupper Lake Emergency Services building (under construction), which will house the Village Police and Fire departments. The tower will receive power and backup power from the Emergency Services building. Related ground equipment will be within the building.

The project is shown on the following maps and plans titled "Tupper Lake Emergency Services Building," prepared by Architectural and Engineering Design Associates, P.C. (AEDA), dated August 2, 2013 ("Site Plan Map"):

- C1.2, "Site Plan," last revised June 11, 2015; and
- C2.1, "Detail Sheets," no revision dates.

The tower and antennas are shown on the following plan titled "Tupper Lake Emergency Services Building – 2015 APA Tower Permitting," prepared by Architectural and Engineering Design Associates, P.C. (AEDA), dated May 1, 2015 ("Elevation Drawing"):

- A1.1, "Tower and Antenna Elevations," no revision dates.

A reduced-scale copy of Drawing A1.1 ("Tower and Antenna Elevations") 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.

CONDITIONS

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

1. The project may not be undertaken until this permit has been recorded in the Franklin County Clerk's Office.
2. This permit is binding on the permittee, all present and future owners, lessees, sublessees, and successors in interest of the project site, and all persons undertaking all or a portion of the project or assuming operational control of all or any portion of the project, for as long as the tower remains on the site. Copies of this permit, the Site Plan Map, and Elevation Drawing shall be furnished by the permittee to all subsequent owners, lessees, sublessees, and successors in interest of the project site prior to sale or lease, and by the permittee and/or any subsequent owner, lessee, sublessee, or successor in interest 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 [Article 24 of the Environmental Conservation Law], and the Adirondack Park Agency's implementation regulations [9 NYCRR Sections 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 2015-45, issued July 13, 2015 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. Subject to the conditions stated herein, this permit authorizes the construction of the 80.5-foot-tall self-supporting lattice tower and the installation of five antennas on the tower in the location shown and as depicted on the Site Plan Map and Elevation Drawings. Any change to the location, dimensions, or other aspect of the tower, including the addition of any new antennas, parabolic dishes, or other equipment, shall require a new or amended permit. Maintenance and/or replacement of the tower, antennas, and other supporting structures and equipment, as authorized by this permit, may occur pursuant to the conditions herein without a new or amended permit.

Tower and Antenna Height

6. The tower shall not exceed 80.5 feet in height above ground level. The antennas shall be located as depicted on the Elevation Drawing; the top of the antennas shall not exceed 92.5 feet in height above ground level.

Structure Color

7. The lattice tower and any cable ladder shall be hot-dipped galvanized steel (resulting in a neutral matte gray color) or painted dark charcoal grey or black with a non-reflective flat or matte finish.

Outdoor Lighting

8. There shall be no lights mounted on the tower or directed so as to illuminate the tower.

Silt Fence

9. Prior to undertaking any earthwork related to installation of the tower foundation, silt fence shall be properly installed between the tower location and the permanent stream and wetlands. The silt fence shall be embedded into the earth a minimum of six inches. 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. The applicants or their successors in interest 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.

Project Operations

Documentation of Construction

10. The Agency shall be provided with color photographs (both in print and digital form) showing the completed tower, antennas, and equipment compound within 30 days of project completion. Photographs shall be taken at the project site and from Photo Station A (Raquette Pond, 0.7± miles southwest of tower) and Photo Station B (NY State Route 3, 0.2± miles northwest of tower). At the project site, photographs showing the entire completed project shall be provided. From all Photo Stations, digital equivalent 55mm and 85mm lenses shall be employed. All photographs must clearly identify the date the picture was taken, the location of the photograph, and the lens size employed. Compliance photographs shall be taken on a clear day with little cloud cover.

Within 30 days of receipt of the photos, the Agency shall provide written confirmation of permit compliance or, if the Agency finds the project is not in compliance, it shall specifically state the reason(s) for non-compliance. In the event of non-compliance, the permittee shall within 45 days submit a plan and schedule to modify the structure and achieve compliance for Agency review and approval.

Reports

11. 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.

Discontinuance of Use

12. The tower authorized herein shall be removed within one year following any discontinuance of its use for a full year. Any authorized antenna listed on the Elevation Drawing shall be removed within six months following any discontinuance of its use for six months. Replacement of the tower or any antennas removed as required by this condition shall require a new or amended Agency permit.

FINDINGS OF FACT

Background

Site History

1. The project site was created by a two-lot subdivision authorized by Agency Permit 2013-208, issued December 10, 2013 and recorded February 4, 2014 in the Franklin County Clerk's Office as Instrument No. 2014-596. The location of the project site's northern subdivision line was adjusted as authorized by Agency Permit 2013-208A, issued February 24, 2015 and recorded March 23, 2015 in the Franklin County Clerk's Office as Instrument No. 2015-1187.

Project Sponsor

2. This tower is proposed by the Village of Tupper Lake to consolidate its emergency communications antennas and equipment on a single tower at the site of a new (under construction) Emergency Services building.

Towers Policy

3. On February 15, 2002, the Agency adopted a policy titled "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park" (Towers Policy). This Agency's Towers Policy is intended to protect aesthetic, open space and other resources, while providing for telecommunications systems consistent with federal law. The 2002 Towers Policy updated a 1978 policy and recognized that "governmental emergency communications are being converted to digital technology, which will require new facilities to provide services to meet the needs for public health, safety, and welfare." Section III-D of the 2002 Towers Policy "recognizes that such factors should be taken into consideration along with other policy guidelines." The Towers Policy directs the consideration of the land use area; it states, "substantial invisibility is considerably different in developed areas with the less restrictive Hamlet land use area classification when compared to areas classified Rural Use and Resource Management in light of the differing statutory purposes and policies for these areas set forth in the Land Use and Development Plan."

Existing Development

4. The Tupper Lake Emergency Services building, under construction on the project site, will provide space for the Village of Tupper Lake Fire Department and Police Department, as well as community space. The Fire Department wing of the building will be 22 feet 10 inches tall and the Police Department wing of the building will be 16 feet 0 inches tall. The existing Fire Department building (on High Street) and its ground-mounted tower will be decommissioned. The three antennas currently on the Fire Department tower will be moved to the new tower authorized herein, and one of them will be decommissioned and replaced with a new antenna. The existing Police Department building (on Park Street) and its roof-mounted tower will remain in use for the Village Offices, although two antennas will be removed from the tower and placed on the tower authorized herein.

Proposed and Authorized Development

5. All five of the antennas are linear, including one low band co-axial antenna, one omni antenna, one omni-exposed dipole antenna, and two broadband antennas. They will all be mounted vertically and parallel to the tower.

Project Site

Water Resources and Wetlands

6. The project site's northern property line follows a permanent stream. Much of the stream is separated from the tower and building area by a row of boulders. The stream flows into wetlands along the shoreline of Raquette Pond, a navigable water body, 750± feet to the west.
7. There are wetlands on the project site in small areas along the stream. The wetlands are an emergent marsh with a value rating of "2" pursuant to 9 NYCRR Part 578. Wetland boundaries were delineated by Agency staff on April 29, 2013 (W2013-16) and are shown on the Site Plan Map. The wetlands shown are 133± feet from the tower at their closest point. Wetlands shown on the plans and/or described herein are intended to alert landowners and others that wetlands are present on the project site. However, this may not identify all wetlands on or adjacent to the project site.

Slopes

8. Existing slopes on the project site are less than 1 percent.

Soils

9. Soils on the project site in the location of the tower consist of structural fill brought in to support the Emergency Services building.

Visual

10. A visual analysis of the tower and antennas was submitted with the application for this permit, titled "Visual Analysis Report for Tower & Antenna at Tupper Lake Emergency Services Building," prepared by Architectural & Engineering Design Associates, P.C., dated May 19, 2015 and revised June 12, 2015. This analysis included a site visit to identify the tower location, height, and actual areas of visibility and photo-simulations of the proposed tower. An Agency staff member was present during the site visit on May 5, 2015.
11. Within one mile of the tower site, the visual analysis, described in the Finding of Fact above, indicates that the tower and/or antennas will be visible from the following locations: 0.5± square mile of Raquette Pond, 0.7± miles of NY State Route 3 (Demars Boulevard), the entire length of Santa Clara Avenue (0.2± miles), 0.4± miles of McLaughlin Avenue, at the end of Mill Street at Raquette Pond, at the end of Cliff Avenue at Raquette Pond, and portions of the Tupper Lake Municipal Park and Flanders Park. Within three miles of the tower site, the visual analysis indicates that the tower and/or antennas will be visible from 1.3± square miles of Raquette Pond. Within three miles of the tower site, the same analysis indicates that the tower and antennas will not be visible from the following locations: Wolf Pond, Little Wolf Pond, Simon Pond, the Raquette River, or any streets greater than 0.6± mile of the tower site.
12. Views of the tower and antennas are often in context of other vertical structures and development. Views of the tower site from NY State Route 3 (Demars Boulevard) include many other vertical structures, in addition to buildings and parking areas, such as utility poles, transmission lines, street lights, commercial signs, an industrial use smokestack, silos, and a water tower. Views from Raquette Pond of the tower site and nearby shoreline include many other vertical structures, such as the industrial use smokestack and water tower, and the light posts and fixtures for the Tupper Lake Municipal Park ball field.
13. The top of the tower will be narrow, 1 foot 2 inches wide, and the antennas are linear antennas as opposed to panel antennas or parabolic (dish) antennas and oriented vertically on the tower. From many of the locations from which the tower will be visible, the lower portion of the tower will be blocked by the foreground. When the top portion of the tower and antennas are visible, they will sometimes be backdropped by trees and topography and sometimes seen against the sky.

Historic Sites and Structures

14. The project site is not within an archeologically sensitive or historic area as mapped by the NYS Office of Parks, Recreation and Historic Preservation.

Co-Location

15. The permittee affirms that the tower authorized herein is solely for use by the Village of Tupper Lake; the village has no policy for co-location of the site or use by others.

Nearby Land Uses

16. The project site is in the Village of Tupper Lake. The properties immediately adjacent to the project site are developed as follows: an abandoned rail corridor and community recreation building to the east, self-storage units to the south, a gas station to the west, and a shopping plaza to the north. Nearby, within approximately one-quarter mile, the character of the area is developed, including an industrial use building and complex, utility substation, commercial buildings, residential buildings, and village parks.
17. A 140±-foot-tall water tower with cellular antennas is located 990± feet northwest of the tower authorized herein. Agency Permit 95-310 authorized the installation of two 10 foot tall omni antennas to be attached to two 30 foot tall masts to be mounted to the existing water tower constructed in 1929. Agency Permit 95-310A authorized the installation of a 2 foot diameter parabolic antenna to the south face of the water tower and the replacement of the two previously authorized omni antennas with three omni antennas.
18. The 260± foot tall smokestack for the nearby industrial use building is a highly visible landmark located 1,000± feet northwest of the tower authorized herein.

Access

19. The tower site is 190± feet from the centerline of Santa Clara Avenue. Access to the tower site is via the Emergency Services building driveway and parking lot.

Alternatives

20. The permittee evaluated the possibility of locating some antennas off site, such as where they are currently located or co-locating them on other tall structures, to allow for a reduction in tower height. The permittee rejected any alternative of locating any antennas off site for several reasons. The Village of Tupper Lake plans to sell the existing Fire Department property; retention of the existing Fire Department tower would complicate the sale of the property. Radio transmitters and receivers work more efficiently and reliably in close proximity to their associated antennas by reducing power lost through the length of transmission lines and by avoiding the effects of off-site power outages or damage to transmission lines. There will be a generator on site to operate the Emergency Services building and the tower's antennas. Both Fire and Police base stations use multiple frequencies that would be difficult to operate via remote control. The permittee's objective is to maintain all components necessary to provide emergency services, including communication, on one site in order to maintain control and access over those components. The proposed location is the only site that meets these objectives.

21. The permittee evaluated the possibility of a lower tower height. The ground elevation of the Emergency Services building is 35± feet lower than the ground level of the existing Village tower on Park Street. Part of the village, including the High School and Natural History Museum of the Adirondacks, is on the back side of a hill from the Emergency Services building location. The tower height authorized herein is necessary for the antenna signals to clear the topography, trees, and manmade objects in the surrounding area and will help radio waves radiate further and stronger to penetrate buildings for pager activations and portable use during fire calls.

Public Notice and Comment

22. 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.

Other Regulatory Requirements

23. A Local Government Notice Form signed March 23, 2015 by the Village Code Enforcement Officer reports that this use is allowed in the local zoning district (Commercial), the project is not prohibited by any local law or ordinance, and the project will not require any municipal permit.
24. By letter dated May 12, 2015, the New York Air National Guard determined that the project as proposed would not cause any negative impact on military training airspace.
25. The NYS Department of Environmental Conservation issued a SPDES General Permit for Stormwater Discharges from Construction Activity (for construction of the Emergency Services building), Permit No. GP-0-15-002. The permit is effective January 29, 2015 through January 28, 2020.
26. The antennas authorized herein require licensing from the Federal Communications Commission. The Village of Tupper Lake has current licenses for all of the antennas that will be on the tower.
27. No formal notice to the Federal Aviation Administration (FAA) is required for a tower of the proposed height in this location.

Impairment of Rights

28. 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.

PROJECT IMPACTS

Water Resources and Wetlands

29. All excavation and site work associated with the tower foundation will be completed prior to removing the existing silt fence and in compliance with the current DEC SPDES permit issued for construction of the Emergency Services building. The tower will be bolted together and swung into place by a truck crane or a bucket truck. Therefore, there will no adverse impacts to the nearby permanent stream or wetlands, or downstream waterbodies.

Visual

30. The authorized tower and antennas will be visible but consistent with the Agency's Towers Policy due to the public safety purpose of the tower and its antennas for emergency communications as part of a governmental emergency communications facility; the tower's location, design, height, width, and color; the location, size, and shape of the antennas; and the context of the tower among other vertical structures, some with other antennas (i.e., smokestack, water tower, and utility poles).
31. The authorized tower and antennas will fit with the character of a public safety building in the Hamlet land use area in which it is located.
32. Prohibiting lights on or directed toward the tower will reduce nighttime light pollution (glare, light trespass and sky glow) and will reduce the nighttime visibility of the tower.

Historic Sites or Structures

33. 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 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 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 Hamlet land use area;
- c. will be consistent with the overall intensity guidelines for the Hamlet 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, taking into account the economic and social benefits that might be derived therefrom.

PERMIT issued this 13th day
of July, 2015

ADIRONDACK PARK AGENCY

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

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

On the 13th day of July in the year 2015, 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:mlr:slp

STEPHANIE L. PETITH
Notary Public - State of New York
Qualified in Franklin County
No. 01PE6279890
Commission Expires Apr. 15, 2017

