


STAFF DRAFT – NOT APPROVED BY AGENCY
THIS IS A TWO-SIDED DOCUMENT

| | |
|--|--|
|  <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p> | <p>DRAFT APA Permit 2021-0207</p> |
| <p>In the Matter of the Application of</p> <p>TARPON TOWERS II, LLC, T-MOBILE NORTHEAST, LLC, NEW CINGULAR WIRELESS PCS, LLC d/b/a AT&T, HERKIMER COUNTY, HAMILTON COUNTY, and TOWN OF INLET Permittees</p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act</p> | <p>Date Issued: XXXX</p> <p>To the County Clerk: Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none">1. Tarpon Towers II, LLC2. T-Mobile Northeast, LLC3. New Cingular Wireless PCS, LLC d/b/a AT&T4. Herkimer County5. Hamilton County6. Town of Inlet |

SUMMARY AND AUTHORIZATION

This permit authorizes two new telecommunications towers, an equipment compound, an access road, and a subdivision by lease in an area classified Rural Use on the Adirondack Park Land Use and Development Plan Map in the Town of Inlet, Hamilton County.

This authorization shall expire unless recorded in the Hamilton County Clerk's Office within 60 days of issuance of a signed and notarized permit. The signed and notarized permit shall be recorded 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 five years of the date the permit is recorded in the County Clerk's Office. The Agency will consider the project in existence when one of the towers 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 permittees, 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 permittees to comply with all applicable laws and regulations or 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 the approximately 227.3-acre Rural Use portion of a 230.3±-acre parcel of land located on the northwest side of Limekiln Road in the Town of Inlet, Hamilton County, in an area classified Rural Use on the Adirondack Park Land Use and Development Plan Map. The site is identified as Tax Map Section 59.000, Block 3, Parcel 4.112 and Section 59.020, Block 3, Parcels 1.111, 15.100, and 13.100. The project site is described in the following deeds:

- Tax parcel 59.000-3-4.112 (172.40± acres) is described in a deed from David Corasanti to Hidden Peak, LLC, dated March 3, 2021, and recorded March 8, 2021 in the Hamilton County Clerk's Office as Instrument Number 2021-370.
- Tax parcels 59.020-3-1.111 (50.70± acres) and 59.020-3-15.100 (4.90 acres) are described in a deed from Patricia Murdock to Harold Sauer and Cynthia Sauer, dated November 12, 2002, and recorded January 14, 2003 in the Hamilton County Clerk's Office in Book 228 at Page 55.
- Tax parcel 59.020-3-13.1 (2.30± acres) is described in a deed from Patricia Murdock to Harold Sauer and Cynthia Sauer, dated July 8, 2015, and recorded July 14, 2015 in the Hamilton County Clerk's Office as Instrument Number 2015-885.

The project site does not include the approximately 3-acre portion of the above-referenced properties that is classified Hamlet.

PROJECT DESCRIPTION

The project as conditionally approved herein involves a subdivision by lease to create a 3,985±-square-foot (0.09±-acre) lease area and construction of two new telecommunications towers.

Tower 1 will be 95 feet in height and will be located 3,400± feet northwest of Limekiln Road. The top of the tower will be concealed as a simulated pine tree, for a total height of 100 feet. Antennas for T-Mobile Northeast, LLC, Herkimer County, Hamilton County, and the Town of Inlet will be installed on the tower at base heights of 60 feet to 95 feet above ground level (AGL). A 20-foot-tall antenna mounted at a base height of 95 feet AGL, at the top of the tower, will extend 15 feet beyond the crown branching, to a height of 115 feet AGL.

Tower 2 will be 90 feet in height and will be located 60± feet northwest of Tower 1. The top of the tower will be concealed as a simulated pine tree, for a total height of 95 feet. Antennas for New Cingular Wireless PCS, LLC d/b/a AT&T, the Town of Inlet, and other permittees, will be installed on the tower at heights of 54 feet (antenna base) to 85 feet (antenna centerline). No antennas will extend beyond the height of the tower.

The towers will be located within a fenced-in equipment compound that will contain three separate equipment shelters/pads and emergency back-up generators at the base of the towers.

Access to the facility will involve construction of a 1,130±-foot-long gravel access drive from Limekiln Road, that will connect with an existing 3,010±-foot-long access drive, and then connect with an additional 830± feet of existing access drive (to be widened from 8 feet to 12 feet), for a total of 4,970± feet/0.94± miles to reach the tower site.

Underground utilities will be located along the access road and within a 25- to 30-foot-wide access and utility easement.

The project is shown on the following maps, plans, and reports:

- Thirty-seven sheets of plans titled “Tarpon Towers, Inlet, 88 Limekiln Road, Inlet, NY 13350, (2) Monopine Towers,” prepared by Infinigy Engineering, PLLC, last dated March 14, 2022, and stamped March 14, 2022 by John S. Stevens, PE (Project Plans); and
- a 35-page report titled “Visual Assessment Report, Proposed 90-foot and 95’ Monopine Towers, Inlet, 88 Limekiln Road, Inlet, NY 13360,” prepared by Infinigy Engineering, PLLC, and last dated January 28, 2022 (Visual Assessment Report).

A reduced-scale copy of Sheet C2 (Overall Site Layout) and Sheet C4 (Compound Elevation) of the Project Plans is attached as 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

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to the construction of any structure in excess of 40 feet in height and the establishment of a major public utility use on Rural Use lands in the Adirondack Park.

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to any subdivision of Rural Use lands, including subdivision by lease, that results in the creation of a non-shoreline lot smaller than 7.35 acres in size in the Adirondack Park.

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 Hamilton County Clerk's Office.
2. This permit is binding on the permittees, 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 telecommunications towers remain on the site. Copies of this permit, the Project Plans, and Visual Assessment Report shall be furnished by the permittees to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittees 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 conditions in Permit 2015-0049B remain in full force and effect except as amended herein.
5. 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 2021-0207, issued **XXXX**, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

Subdivision and Construction

6. Subject to the conditions stated herein, this permit authorizes the subdivision by lease and construction of an access road, two towers, antennas, and equipment compound in the location shown and as depicted on the Project Plans referenced herein. Tower 1 shall not exceed 100 feet in height, including all portions of the simulated tree. Tower 2 shall not exceed 95 feet in height, including all portions of the simulated tree. The antennas shall be located on the towers as shown on the Project Plans referenced herein, with the top of the antennas on Tower 1 no higher than 115 feet above ground level (base elevation of 95 feet above ground level) and the top of the antennas on Tower 2 no higher than 89 feet above ground level (centerline elevation of 85 feet above ground level).

Any change to the location, dimensions, or other aspect of the development authorized herein, including the construction of any new tower or the addition to the authorized tower of any new antenna or other equipment, shall require prior written Agency authorization. Any other new land use or development on the 3,985±-square-foot leased parcel shall require prior written Agency authorization. Maintenance and/or "in-kind" replacement of the towers, antennas, simulated branching, equipment shelters/pads and other appurtenant facilities authorized herein is allowed without a new or amended permit.

Concealment

7. The simulated tree portion of the towers shall mimic the branching structure, needle pattern, and coloration of a mature, fully-formed eastern white pine tree, as depicted in the Visual Assessment Report. Under current site conditions, any co-location that increases the height or width of the tower or renders the tower not substantially invisible will defeat the concealment elements of the simulated tree tower approved herein.
8. In the event that any simulated branches break or fall off, they shall be repaired or replaced within eight months to restore the substantial invisibility of the simulated tree in this location. Photos of the repair or replacement shall be provided to the Agency within two weeks of completion.

Structure Color

9. Except for the portion that will be concealed as a simulated tree, the authorized tower and antennas shall be painted dark charcoal grey or black with a non-reflective flat or matte finish, or the tower may be clad in artificial bark designed to mimic a mature eastern white pine tree.

Lighting

10. Installation of any lighting on the tower authorized herein shall require prior written Agency authorization. Any other exterior lights within the 3,985±-square-foot lease area shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward adjoining property. Any exterior lights within the lease area shall be manually controlled and switched off when not in use.

Signs

11. All signs associated with the telecommunications tower on the project site shall comply with the Agency's "Standards for Signs Associated with Projects" [9 NYCRR Part 570, Appendix Q-3].

Vegetation

12. Within 300 feet of the towers authorized herein, no existing trees greater than 8 inches diameter at breast height shall be cut, culled, trimmed, pruned, or otherwise removed without prior written Agency authorization, except for a) the 12 "trees noted for removal" shown on the Project Plans and b) dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.

Within 30 days of removal or loss of any trees or other vegetation on the project site and within 300 feet of the tower, other than the 12 "trees noted for removal" shown on the Project Plans, a plan and implementation schedule for re-vegetation and/or re-design and/or re-location to maintain the substantial invisibility of the tower, its antennas, and equipment compound shall be submitted to the Agency for review and approval. The plan shall be implemented as described in the approved implementation schedule.

Invasive Species Prevention

13. When brought from off-site, all equipment, including but not limited to trucks, excavators, tractors, etc., and hand excavation tools such as shovels, rakes, and picks, to be used on the project site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites. All construction equipment and vehicles operating in areas that may contain existing invasive species shall be thoroughly cleaned prior to moving to other areas.

Erosion Control/Stormwater Management

14. The project shall be undertaken in compliance with the Project Plans.

Documentation of Construction

15. The Agency shall be provided with color photographs showing the completed tower, antennas, and equipment compound within 30 days of project completion. Photographs shall be taken at the project site and from the following viewpoints using the same lens equivalents for which photo-simulations were provided in the

Visual Assessment Report: View 2 (State Route 28/Fifth Lake), View 7 (Seventh Lake), View 9 (Sixth Lake), View 11 (Inlet Golf Club), View 12 (Fourth Lake), and View 14 (Rocky Mountain overlook). At the tower site, photographs showing the entire completed project shall be provided. All photographs shall identify the date the picture was taken, the location of the photograph, and the lens size employed. Photographs shall be taken on a clear day with little cloud cover.

Discontinuance of Use

16. Each tower shall be removed from the project site within two years of discontinuance of use for telecommunications purposes. Antennas shall be removed from the tower within one year of discontinuance of use for telecommunications purposes.

Blasting

17. Prior to any blasting on the project site related to construction of the tower, access drive, or equipment compound, a blasting plan shall be submitted to the Agency for its review and written authorization.

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 Rural Use land use area;
- c. will be consistent with the overall intensity guidelines for the Rural 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 , 2022.

ADIRONDACK PARK AGENCY

BY: _____
Robert J. Lore
Deputy Director, Regulatory Programs

STATE OF NEW YORK
COUNTY OF ESSEX

On the day of in the year 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert J. Lore, 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