

**DRAFT PERMIT - NOT APPROVED BY AGENCY**  
**THIS IS A TWO-SIDED DOCUMENT**

 <p><b>Adirondack Park Agency</b></p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 Fax: (518) 891-3938 www.apa.ny.gov</p>	<p style="text-align: center;">APA Permit <b>2019-0104</b></p>
<p>In the Matter of the Application of</p> <p><b>VERTICAL BRIDGE HOLDINGS, LLC, JOHN M. CHESNUT and CHERYL G. CHESNUT</b> <b>Permittees</b></p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act</p>	<p>Date Issued: <b>XXXX</b></p> <p>To the County Clerk: This permit must be recorded on or before <b>XXXX</b>. Please index this permit in the grantor index under the following names: <b>1. Vertical Bridge Holdings, LLC</b> <b>2. John M. Chesnut</b> <b>3. Cheryl G. Chesnut</b></p>

**SUMMARY AND AUTHORIZATION**

This permit authorizes a new telecommunications tower 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 Elizabethtown, Essex County.

This permit shall expire unless recorded in the Essex County Clerk's Office on or before **XXXX**, in the names of all persons listed above and in the names of all owners of record of any portion of the project site on the recordation date.

The project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit is recorded. The Agency will consider the project in existence when the 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.

This permit does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title, or interest in real or personal property.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to 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 a 13±-acre parcel of land located west of Lincoln Pond Road on Mohawk Way in the Town of Elizabethtown, Essex 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 64.2, Block 1, Parcel 27, and is described in a deed from John M. Chesnut to John M. Chesnut and Cheryl G. Chesnut, dated January 30, 2008, and recorded February 4, 2008 in the Essex County Clerk's Office in Book 1565 at Page 85 as Instrument Number 2008-0586.

## **PROJECT DESCRIPTION**

The project as conditionally approved herein involves construction of a new tele-communications tower and a subdivision by lease to create a parcel 100 feet by 100 feet in size (10,000 square feet). The tower will be 90 feet in height and will be located 500± feet west of Lincoln Pond Road. The top of the tower will be concealed as a simulated pine tree, for a total height of 95 feet (including branching and lightning rod). Six 8-foot-tall panel antennas will be installed on the tower at a centerline height of 86 feet above ground level, along with 15 Remote Radio Heads (RRHs)/Remote Radio Units (RRUs) (15.0 – 26.7 inches tall) and six DC6 squid surge suppressors (17.9 inches tall).

The tower will be located within a 75-foot by 75-foot fenced-in equipment compound that will also contain a 14-foot by 7.25-foot open-sided equipment platform with a backup generator. Access to the facility, for construction and service vehicles, will follow an existing residential driveway (no changes proposed) that will be extended with construction of an additional 100-foot-long gravel access drive to reach the tower site. Underground utilities will be located along the access road and within a 30-foot-wide access and utility easement.

The project is shown on 28 sheets of plans titled “Vertical Bridge Elizabethtown US-NY-5087 75 Mohawk Way Elizabethtown, NY 12932 90’ Monopine Tower,” prepared by Infinigy Engineering, PLLC, last revised and stamped on September 6, 2019 (“Project Plans”):

- T1 – Title Sheet;
- C1 – General Notes and Legend;
- C2 – Overall Site Layout;
- C2A – Site Plan;
- C3 – Enlarged Site Layout;
- C4 – Tower Elevation;
- C5 & C6 – Details;
- C7 – Utility Rack Detail;
- C8 – AT&T Details;
- C9 – Ice Bridge Details;
- C10 – Platform Details;
- EC1 through EC8 – Drainage, Grading & Erosion Control Plan;
- EC9 – Drainage, Grading & Erosion Control Notes & Details;
- TS1 & TS2 – Tree Survey;
- E1 – Overall Utility Layout;
- E2 – Compound Utility Layout;
- E3 – Compound Grounding Layout;
- E4 – Grounding Notes; and
- E5 – Grounding Details.

A visual analysis of the tower and related development was submitted with the application for this permit, titled "Visual Assessment Report, Proposed Monopine Telecommunication Facility, Elizabethtown," prepared for Vertical Bridge, prepared by Infinigy, last dated August 15, 2019. Subsequent to that report, the photo-simulations for Views 1 through 5 were revised and received by the Agency on September 25, 2019.

A reduced-scale copy of Sheet C2 (Overall Site Layout) and Sheet C4 (Tower Elevation) of the Project Plans is attached as a part of this permit for easy reference. The original, full-scale maps and plans described in this paragraph are the official plans for the project, with copies available upon request from Adirondack Park Agency headquarters in Ray Brook, New York. This permit is supported by findings documented and maintained in the Agency file.

### **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 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 Essex County Clerk's Office.
2. This permit is binding on the permittee, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project, for as long as the telecommunications tower remains on the site. Copies of this permit and Project Plans shall be furnished by the permittee to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee and/or any subsequent owner or lessee to all persons undertaking any development activities authorized herein.
3. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2019-0104, issued **XXXX**, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

### **Subdivision and Construction**

5. Subject to the conditions stated herein, this permit authorizes the subdivision by lease and construction of an access road, tower, antennas, and equipment compound in the location shown and as depicted on the plans referenced herein. The tower shall not exceed 95 feet in height, including all portions of the simulated tree and lightning rod, and the antennas shall be located on the tower as shown on the plans referenced herein, with the top of the antennas no higher than 90 feet above ground level (centerline elevation of 86 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 of any new antenna or other equipment to the authorized tower or project site, shall require prior written Agency authorization. Any other new land use of development on the 100-foot by 100-foot leased parcel shall require prior written Agency authorization. Maintenance and/or "in-kind" replacement of the tower, antennas, simulated branching, equipment platform and other appurtenant facilities authorized herein is allowed without a new or amended permit.

### **Concealment**

6. The simulated tree portion of the tower shall mimic the branching structure, needle pattern, and coloration of a mature, fully-formed eastern white pine tree. 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.
7. 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**

8. 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**

9. Installation of any lighting on the tower authorized herein shall require prior written Agency authorization. Any other exterior lights on the 100-foot by 100-foot leased parcel shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward Lincoln Pond Road, Mohawk Way, or adjoining property. Any lights on the equipment platform shall be either switched off when not in use or motion controlled lights.

### **Signs**

10. 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**

11. Within 200 feet of the tower authorized herein, no existing trees greater than 8 inches diameter at breast height shall be cut, culled, trimmed, pruned, or otherwise removed from the project site without prior written Agency authorization, except for a) the “trees to be removed” shown on the Project Plans or 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 within 200 feet of the tower, other than the “trees to be removed” 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 shelter shall be submitted to the Agency for review and approval. The plan shall be implemented as described in the approved implementation schedule.

12. Between April 1 and October 31, no trees on the project site shall be removed or disturbed without prior written Agency authorization, because the site is within 5 miles of northern long-eared bat hibernacula.

### **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.

### **Stormwater Management/Erosion Control**

14. The project shall be undertaken in compliance with the “Drainage, Grading & Erosion Control Plan” contained within 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 same five viewpoints and using the same lens equivalents for which photosimulations were provided in the application (i.e., photo numbers 8, 12, 24, 32, and 34 from US Route 9 near Adirondack car dealership, US Route 9 near Kinney Pharmacy, Lincoln Pond Road, NY Route 9N near intersection with US Route 9, and NY Route 9N near Water Street). At the tower site, photographs showing the entire completed project shall be provided. All photographs must clearly 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. The 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.

**Future Amendments**

- 17. Amendments to this permit that involve only the 100-foot by 100-foot leased parcel may be processed by the Agency pursuant to an amendment request authorized by the lessee.

**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                               , 2019.

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 2019, 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.

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Notary Public