

ZB# 96-34

**Kartiganer /
O.C. Poughkeepsie MSA**

65-1-17

Trulin.

June 24, 1996.

10/20/96. Need copy of
from owner. EAFIT

Need copies of: Photos &
Easements + Title + then

notice to Federal @ Kartiganer ^{Dead thru} 2004 then
on 4/25/96.

6/24/96 - ~~288 discuss it self~~ Leasing

Public Hearing

July 8, 1996.

Height / Road Frontage
Granted

Refund: \$ 209.50

65-1-17

#96-34 Kartiganer / OC Poughkeepsie
MSA Limited Partnership
One/Interp. 65-1-17.

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12553

General Receipt

15614

June 26 1996

Received from Clough, Harlow & Ass \$ 150.00

One Hundred fifty⁰⁰/₁₀₀ DOLLARS

For ZBA # 96-34

DISTRIBUTION:

FUND	CODE	AMOUNT
<u>ck # 4468</u>		<u>150.00</u>

By Dorothy H. Hansen

Town Clerk
TITLE

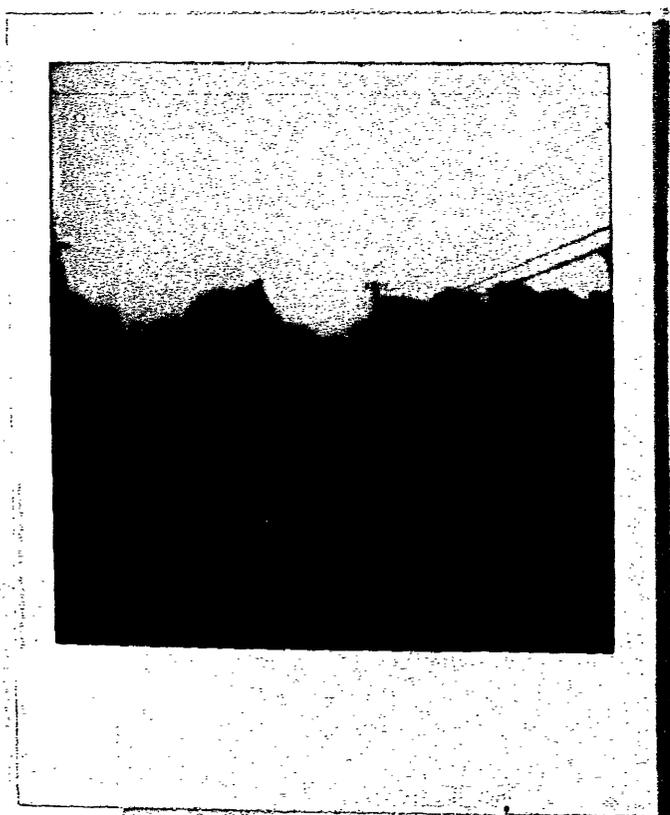
CR# 4468		15000

by

Town Clerk

TITLE

WILLIAMSON LAW BOOK CO., VICTOR, NY 14564



APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Karligner, Herbert & Marjorie

FILE # 96-34

RESIDENTIAL: \$ 50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA

USE

APPLICATION FOR VARIANCE FEE \$ ~~150.00~~

*150.00 Pd
4468
6/3/96*

ESCROW DEPOSIT FOR CONSULTANT FEES \$ ~~150.00~~

*500.00 Pd.
#4469
6/3/96*

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE *6/26/96 - 18 pages* \$ 81.00
2ND PRELIM. MEETING - PER PAGE *7/8/96 - 31 pages* \$ 139.50
3RD PRELIM. MEETING - PER PAGE \$ _____
PUBLIC HEARING - PER PAGE \$ _____
PUBLIC HEARING (CONT'D) PER PAGE \$ _____
TOTAL \$ 220.50

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING: *6/26/96* \$ 35.00
2ND PRELIM. \$ 35.00
3RD PRELIM. \$ _____
PUBLIC HEARING \$ _____
PUBLIC HEARING \$ _____
TOTAL \$ 70.00

MISC. CHARGES:

TOTAL \$ 290.50

LESS ESCROW DEPOSIT \$ 500.00
(ADDL. CHARGES DUE) \$ _____
REFUND DUE TO APPLICANT \$ 209.50

(ZBA DISK#7-012192.FEE)

In the Matter of the Application of

MEMORANDUM OF
DECISION GRANTING
AREA VARIANCES

**HERBERT S. KARTIGANER and MARJORIE
KARTIGANER/O.C. POUGHKEEPSIE MSA,
O.C. POUGHKEEPSIE MSA,**

#96-34.

WHEREAS, HERBERT S. KARTIGANER and MARJORIE KARTIGANER, 3928 Live Oak Blvd., Delaire Country Club, Delray Beach, FL 33445, and ORANGE COUNTY POUGHKEEPSIE MSA LIMITED PARTNERSHIP, with an office located at 180 Washington Valley Road, Bedminster, N. J. 07921, have made application before the Zoning Board of Appeals for a 100 ft. frontage and 142 ft. maximum building height variance for construction of a public utility communications facility with transmission tower off Dean Hill road in an R-2 zone; and

WHEREAS, a public hearing was held on the 8th day of July, 1996 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicants appeared before the Board for this proposal by Ruth B. Rosenberg, P.C. of Nixon Hargrave Devans & Doyle L.L.P. and Anthony Stellato, P.E. from Clough Harbour Assocs., Engineers; and

WHEREAS, there were two spectators appearing at the public hearing; and

WHEREAS, the Application was opposed by the New York City DEP which sent a letter of opposition to the Board; questions were raised by a representative of Mr. Ben Blumenfeld of Mt. Airy Estates; it was opposed by an unidentified audience member; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.
2. The evidence presented by the Applicant showed that:

(a) The subject property consists of a vacant parcel of land located in the center of other much larger parcels of vacant land.

(b) The subject property has access to it off of Dean Hill Road, a Town Highway, by means of an easement of ingress and egress given by the owners of the intervening parcels between the subject parcel and the roadway.

(c) This application is made by NYNEX, a public utility as per the decision of the NYS Court of Appeals.

(d) The purpose of this site is to establish a communications facility for cellular use consisting of a 160 ft. high tower and an equipment shelter which is prefabricated, all which is surrounded by an 8 ft. chain link fence. There is no bathroom, no water and there will be no employees. The site will be visited on a regular basis approximately twice a month for maintenance purposes and it will be accessed over the above-referenced easement by a four-wheel drive van.

(e) A 12 ft. wide driveway will be installed over the easement.

(f) The original intention of the Applicant was to apply for permission to construct a 180 ft. tower but that request has been reduced to one for 160 ft. tower.

(g) The proposed tower is 22 ft. 3 in. at the base and tapers as it descends.

(h) The tower will have displayed on it the minimum lighting required by the FAA on account not only of its height but of its proximity to Stewart Airport.

(i) The FAA has approved construction of a tower 182 ft. high, a tower larger than that now applied for.

(j) The proposed site is close to an existing Central Hudson power transmission line and towers with the power lines coming down the hill toward and passed the site. The access to the parcel will be over an easement 25 ft. wide.

(k) The facility located on the site will be an unmanned facility.

(l) The tower is located in a wooded, remote area and it will not be visible at all, or minimally from most other areas of the Town of New Windsor.

(m) Although there is no street frontage to the parcel there is adequate access for emergency vehicles.

(n) The utility tower originally conceived and applied for was 180 ft. The Utility has determined that it can provide safe and adequate service with a tower of only 160 ft. so the height variance request is reduced to that figure.

(o) The utility service is designed to primarily benefit residential users.

(p) A study by Lucent Technologies evaluating the impact of the facility in measuring the electro-magnetic radiation from it shows that the radiation is approximately 1,375 times less than any applicable standard including the Ansi Standard and the exposure limits of OSHA, Ansi IEEE and NCRP.

(q) The FCC is pre-empted local communities in dealing with the issue of electro-magnetic energy provided that the emissions comply with the standards recognized by the FCC as the report from Lucent Technologies shows that it does.

(r) An written opinion was rendered to the Board by American Property Counselors showing comparables and studying sites next to towers and away from towers and comparing the difference in resale value for sites in Orange and Dutchess County.

(s) The owners of the dominant parcels, the Kartiganers and Hudson Valley Development Group, both have indicated an intention to develop the property in the future and do not have any objection, and, in fact, support the present application.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. This action is an unlisted action for the purposes of SEQR review.
2. This action will have no adverse impact and a Negative Declaration shall be issued.
3. The variance sought is substantial but nevertheless is warranted due to the peculiar configuration of the Applicants' lot.
4. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.
5. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
6. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed for the reasons set forth in the paragraphs above.
6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variances are appropriate and are the minimum variance necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the

same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 100 ft. frontage and 142 ft. maximum building height variance for construction of a public utility communications facility with transmission tower off DeanHill Road in an R-2 zone, located off Dean Hill Road, in an R-2 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: November 25, 1996.


Chairman

Date 7/28/96, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
 NEW WINDSOR, NEW YORK 12553

TO Francis Roth 1217 Sycamore Dr DR.
New Windsor NY 12553

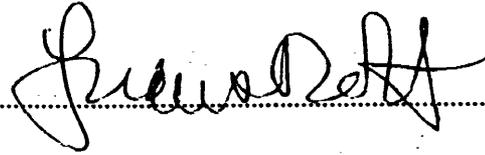
DATE		CLAIMED	ALLOWED
7/28/96	Zoning Board Meeting	75 00	
	Misc - 2		
	Lujan - 13		
	Eachus - 4		
	KWC Realty - 8		
	Vasquez - 8		
	Radich - 5		
	Hartiganer - D.C. Pough - 31		
	<u>71</u>	<u>319 50</u>	
		<u>394 50</u>	

STATE OF NEW YORK,
TOWN OF NEW WINDSOR

} ss.

.....
I hereby certify, that the items of this account are correct; that the disbursements and services charged therein have in fact been made and rendered, and that no part thereof has been paid or satisfied, that the amount herein mentioned is in full settlement for all services rendered and materials furnished.

Sign Here



No.

Town of New Windsor

.....
Nature

Amount Claimed \$

Amount Allowed \$

Filed

I hereby certify that at a meeting of
said Town Board held at the office of the
Town Clerk on the day
of, 19.....
the within claim was audited and allowed
for the sum of
\$

.....
Clerk

KARTIGANER/O.C. POUGHKEEPSIE MSA

TORLEY: Referred by Planning Board for 100 ft. frontage and 142 ft. maximum building height variance for construction of a public utility communications facility with transmission tower off Dean Hill Road in an R-2 zone.

Ruth Rosenberg, Esq. appeared before the board for this proposal.

MS. ROSENBERG: My name is Ruth Rosenberg and I'm an attorney with the law firm of Nixon, Hargrave, Devans and Doyle and I represent Orange County Poughkeepsie Municipal Partnership. To help your court reporter a little bit, I'm going to give her which I have already sent to each of you which I'd like to be part of the record, with the explanation that in the bound version of this green document, Exhibit E in the bound version is the incorrect cite, I have inserted a new Exhibit E which is the correct cite for New Windsor. This has my address on it and my name so it should be helpful, I'd like it to be part of the public record. Secondly, from a business perspective, the information at the time that I was here Mr. Krieger asked me a couple of questions, one of which was to send him the access easement and the optional lease agreement which I did and also I believe it was the chairman asked whether we had anything in writing, maybe it was Mr. Krieger from our neighbor, Hudson Valley Development Group of New Windsor supporting our application at that time I did not, tonight I do have such a letter.

MR. TORLEY: Before you continue, is there anyone in the audience regarding this project who wishes to speak?

MS. ROSENBERG: I do now have such a letter which I'd like to be part of the public record but I'm going to hand to you, hand it to you, Mr. Chairman okay. I have previously sent a copy of this bound testimony to the members of the zoning board and this is a public hearing. I'm going to briefly go through it, not going to take it the entire time going through everything, but to go briefly through this. In '94, December '94,

which is a long time ago for us, Orange County Poughkeepsie Limited Partnership which is a cellular telephone company entered into an option and lease agreement with the Kartiganers to place a communications facility on the corner of their property off of Dean Hill Road. The full site is shown on this, I don't know if you all can see it, maybe if you come up a little closer. On this sketch which is called public utility communications facility C2, what we have on the bottom of this sketch of the entire site is Dean Hill Road where the red beam is and then we have an existing public hundred foot wide public utility telephone company right-of-way. It goes from Dean Hill Road up to and crossing the Central Hudson Gas and Electric Company right-of-way and continues on. In that right-of-way is an existing drive, I wouldn't recommend it or most vehicles, it's in pretty bad condition. But it is the access that has been used since the time this hundred foot wide telephone company right-of-way was used as a telephone line going all the way to Albany.

MR. LANGANKE: How often do they use that road?

MS. ROSENBERG: How often did they or do they?

MR. LANGANKE: Do they?

MS. ROSENBERG: I don't think they use it now because the line is not a current line but the right-of-way is still there, now we propose, we got a new easement, we got a new easement for the entire length to our proposed lease, we got a new easement from the Kartiganers who own this large parcel which our improvement is in that little corner and we got an easement from Hudson Valley Development Group which is the property owner of everything else until we get to Dean Hill Road. The property line along, parallel, perpendicular to Dean Hill Road, goes to the west of property of Elaine P. and Frank J. Maurice and lands of Elaine Maurice so those are the two property owners but the property line of the development company goes right adjacent to their company. We're going to use the existing road, the part of it, the hundred foot wide right-of-way that we're going to use is 25 feet wide

and we're going to use that for access and for our utilities. Now, Hudson Valley Development Group of New Windsor LP has plans sometime in the future to develop their property as residential subdivision. They asked us to take this jog for our access and utilities because it would otherwise interfere with some of the lots they hope some day to get approved. So we said okay, we'll do that, and we submitted the access and utility easement that we got from Hudson Valley Development Group of New Windsor to Mr. Krieger. The facility site is a communications facility, this is a cellular site, also called wireless cell site, it consists of 160 foot high tower and equipment shelter which is prefabricated, brought in, placed on a slab, the equipment which is very sensitive and expensive equipment is already in this shelter and it gets placed on to the slab, the whole tower and equipment shelter gets surrounded by an eight foot high chain link fence, which the top three strands or the last foot are barbed wire. There's no bathroom, there's no water, there are no employees. This site will be visited on a regular basis, maybe twice a month for maintenance purposes and it will be accessed by a four wheel drive van. The access roadway will have to be or driveway will have to be improved somewhat, it's pretty rough right now but will remain a gravel drive. We're removing as few of the many trees around here as is absolutely possible to remove and you can see that woods will continue to exist all around the site. This area inside will be gravel, the fence will be gravel, the 25 foot wide access road will be improved by a driveway which is 12 or 15 feet.

MR. STELLATO: It's 12 feet.

MS. ROSENBERG: 12 feet wide access drive, it will stop with a turnaround which will also accommodate two parking spaces although your zoning ordinance speaks to parking spaces for employees on the site and there are no employees on the site. Nevertheless, there will be the equivalent of two parking spaces for the turn around, the tower is a freestanding tower 160 feet tall. One of the things that we originally started out with is a 180 foot tower so you see in the visual resource evaluation and in the statement relative to

the proposed transmission tower and indeed in the photographs that we're going to show you which are the viewshed, they are all addressing 180 foot tower, our people were able to permit us to come down 20 feet and still provide the adequate and safe service that we're required to provide so that we have a tower in fact that is 20 feet shorter than what we're going to show you on the visual assessment.

MR. LANGANKE: Just a few questions. What are the dimensions of the tower, the width?

MS. ROSENBERG: Tony, do we have that?

MR. TORLEY: It's right on the plan.

MR. STELLATO: It's 22 feet and 3.

MS. ROSENBERG: This is Tony Stellato from Clough, Harbour & Associates, our engineer.

MR. STELLATO: It's right on the plan and it's--

MS. ROSENBERG: 22, 10 and 38 on each of the legs of the triangle.

MR. LANGANKE: Freestanding you have no guidewires on it?

MR. STELLATO: Not necessary.

MR. LANGANKE: And the same dimensions all the way up.

MR. STELLATO: No, it does taper as it goes up, yes.

MR. LANGANKE: Because of this height, does it require any aviation warning lights, any blinking lights?

MS. ROSENBERG: FAA has a general rule of thumb that if you have a tower 200 feet and over, it will require lights but we're near an airport and we're going to have to light this tower so this tower will be lit with a red light at night and it will be a striped painted tower.

MR. LANGANKE: So you are going to have one red light on it?

MR. STELLATO: There might be one at mid height, too.

MR. LANGANKE: Blinking or always on?

MS. ROSENBERG: I think they are always on, aren't they?

MR. STELLATO: No, I think, Ruth, I think it will blink.

MS. ROSENBERG: It's only on at night is what I mean to say as opposed to being on all day because of the proximity to Stewart Airport, anything of size even though it's under 200 feet requires lighting.

MR. TORLEY: This has been discussed or at least shown to the Stewart Airport people?

MS. ROSENBERG: It has been approved by the FAA for 182 feet high, we're only building 160 feet high. The FAA has jurisdiction over the approval.

MR. STELLATO: We called Stewart when we did the balloon test, they didn't have any concerns over the height we'd be flying, they told us at that time the height wouldn't interfere with anything they were doing so--

MR. KRIEGER: You say it's been approved by the FAA? Did you get any kind of written approval from them or--

MS. ROSENBERG: We must have a written approval, I don't have it with me, but I was told that we were approved for 182 feet, we're only going to build 160 feet.

MR. TORLEY: That would be useful for the record.

MS. ROSENBERG: I'll try to get a copy of that for you. Let me go on and tell you why we're here. We're here because your zoning ordinance is very unusual. It defines buildings to include towers also fences which

is unusual but in any event because it defines buildings specifically to include towers, we need a variance because in this district, the height limitation on buildings is 18 feet. The Central Hudson, why don't we get the pictures of the Central Hudson tower.

MR. TORLEY: Question for the building inspector while you're setting up, was there a regulation somewhere in the code of a maximum building height in town?

MR. SCHMIDT: Not that I know of, it differs from bulk table to bulk table.

MR. TORLEY: There wasn't an ultimate limit?

MR. SCHMIDT: Not as far as I know.

MR. TORLEY: We want to make sure you're asking for the proper variance.

MS. ROSENBERG: Right, that is that is rendering which shows the existing Central Hudson power transmission towers and power lines coming down the hill toward Riley Road and this crosshatched tower is a perspective of 180 foot tower, take this down about 20 feet and that would be what our freestanding communications tower would look like. These towers that Central Hudson power and light towers are we believe 60 feet high and under your zoning ordinance, because it isn't a radio or television tower, theoretically it could be Central Hudson towers could be any height whatsoever, that is an anomaly that I am pointing out to you but we're talking about public utility structure. I think it is probably fair to say that telephone poles that you see in front of your house probably meet an 18 foot height requirement. But anything that is a more substantial communications or a public utility structure is going to be higher than that. So it's not possible for us to build a cell site with a tower that is 18 feet high. In fact, we're very pleased that the people said we can go to 160 to provide safe and adequate service so we're asking for variance for height. Secondly, we have the same problem the gentleman that was here earlier mentioned, we do not

have street frontage. The Kartiganer parcel is landlocked in the sense that it has no street frontage. This is the Kartiganer parcel here and then there's another little little piece that goes back. That is a different tax number. The access to the Kartiganer parcel that now that we indicate is an easement granted to us by the Kartiganers and also easement granted to us by the intervening property owners to Dean Hill Road. Section 280A of the Town Law which you heard before permits the zoning board to grant a variance for lots or parcels that do not front on a public street and in particular, it deems adequate for purposes of access for emergency vehicles, I think it's a 15 foot right-of-way, 15 feet, it's quoted on page 8 of my testimony, we have a 25 foot wide right-of-way although as I said, the gravel part will be 12 feet wide, very sufficient for emergency vehicles, although this will be unmanned facility, it's fireproof construction. The site is silently manned, alarmed to a constantly manned off-site center. And it is a relatively very secure system. I have a whole section of this but essentially, the development of cellular telephone service requires a system of cell sites that radiate and that permit access and transmission of signals over a particular geographic area, the size of that geographic area depends upon elevation of the ground, what obstructions there are, but then calls are handed off from one cell site to the other cell site to another cell site and the figure in my testimony shows you how that works, also some overlapping. This particular cell site is a cell site for capacity and for service. We were here trying to make a phone call with a hand held cellular phone just before the meeting and it broke off, we lost it. So this particular cell site will provide safe and adequate service for cellular telephones for this particular area of New Windsor. Now, why do we care about that? Well, the court of appeals has determined in New York State that cellular telephone is a public utility and as most of you know, cellular telephone has caught on in a very big way, with the public. It provides safe service for people who are away from home, not dependent on their land lines and indeed in emergencies, it provides quick and adequate service for 911 telephone calls, emergency vehicles for hospitals, for physicians, for people who

want the security of knowing they are out stuck at night, they can make a phone call and get help, people use it for, business people use it for family purposes, the number of people who are acquiring cellular telephones is increasing exponentially. I have one in my car which was a particular service to me a couple, just a little over a year ago when I was, my car was totaled and I was in it and I made a phone call and got the police there right away and I got to a hospital. There's the number of anecdotes which one can recite that show you how immensely useful this system is, just too many to begin to recite. There are a couple of them in my written testimony. So we have a public utility and we have a public utility that unlike many public utilities does not have a paracondemnation so we have to rely on being able to acquire sites from willing property owners. Nevertheless, the court of appeals State of New York has said this is a public utility, it is entitled to a special level of burden of proof. Even if we're applying for a use variance which we're not, we're applying for an area variance, the public utility is entitled to a lesser burden of proof than a question of practical difficulties, unnecessary hardships, we don't have to prove that. There is no reasonable use you can bring to the building, to the property, and get a reasonable return. We don't have to respond to the self-imposed hardship defense, we have a burden of showing we're going to provide to the public safe and adequate service and that is our burden. We have provided a facility that is the minimum height that we can provide that will give that service, we can't do it with an 18 foot tower, we can't do it with 100 foot tower, 160 feet is going to have to be it. This is a good location. It is remote, from existing residences and I'm going to show you some photographs taken in various places around town. You can see there's a relatively limited area where you'll see the tower. It is in a wooded area and as I said remote. It's sort of an ideal location for us because it's at a good elevation and it can receive signals in a representative area. Now, I'm going to ask Tony to show you the photographs and people who might be interested from the audience as to what we did, we did what was called the balloon test and he will tell you about it.

MR. STELLATO: If you'd like, if it is easier for you, members of the board can follow along, there is an attachment to Ruth's testimony in the blue packet here, the photographs are all in there, the view is much nicer here because it's in color. But there's a map in the bound enclosure blue and white. I'd like to tell you what we have done before I go through it, the viewshed, and the purpose is quite simply to delineate for the board where you can and cannot see the proposed tower from. And in order to come in with a map that shows that, we do two things, first thing we do is we fly weather balloons in the location of the proposed tower at the height of the proposed tower. In this case, we flew the balloons at 180 feet because that was the original intended height of the tower. We did however tether a balloon down at 150 feet so in the photographs where the balloons are visible, it will help you to make the corrections with your eye down to 160 feet. While the balloons are flying, we survey the area of roadways and the surroundings to determine where you can and cannot see the balloons from and therefore where you will and will not be able to see the tower from. We don't stop there though. What we do beyond that is back in the office, we take the USGS mapping with topo on it and cross-sections through the proposed tower location and then we plot line of site along sections, along those sections, and we plot on the topo and the vegetation and see if we can determine in that manner if we can correlate that data to what we found in the field and we put it together and come up with a viewshed map. What I have here is an exhibit entitled proposed communications tower, Town of New Windsor, New York Viewshed analysis and map and photo perspectives in the center is the viewshed map and it's multi-colored map and again, I said you have a blue and white version of it in your booklets that you need a little bit stronger pair of glasses to follow but this basically shows areas that are in yellow, areas where you will be able to see the tower from. Now, the tower is shown at the center of the map, it's a purple dot on the colored exhibit and there's some areas of yellow that surround it and there's also in some outlying areas some yellow areas where the tower will be visible from, its important to remember when you're looking at

these areas, those views will be distant views and many days the conditions, the color of the sky will make it harder than on other days to see the tower. The green areas on the map are areas where vegetation will block the view of the tower and it's not only in the summertime when the leaves are on the trees that the vegetation will block the view of the tower but also again because as you get a distance from the proposed tower, the existence of the trunks of the trestle actually impede the view of the tower. So it is not only the foliage that we're counting on to block the view and finally the brown areas or the tan areas are areas where you will not see the tower because of terrain because of the topo hills that will be blocking the view. We have a series of photographs and I'd like to go through them quickly one by one. Photograph number one is from Knox Headquarters State Historic Site and we included this photo because it was a significant site, it's important to note that the tower will not be visible from this location.

MR. LANGANKE: Where is that on the map?

MR. STELLATO: On the map the photographs are keyed with numbers and I have the pointer on photograph number one on the map now and you can see the tower and you can see it's quite a distance away. The mapping is at the scale of one inch equals 2,000 feet and we're a good eight inches away. Photograph number 2 and I'll point to the location of photograph number 2, it's the closest photograph that we have to the tower, it's from Riley Road looking west toward the tower and it's also the same view that Ruth showed you that the perspective of, it's actually that photograph right there. You'll see the tower from this location, the balloon at the top again is 180 feet also 150 so 160 will be somewhere in there. Photograph number 3 is from Route 300 looking southwest, the tower at 180 feet appears just over the clearing, that right-of-way at 160 will be slightly below that, you can see there's many existing towers in this view and the addition of our tower won't be out of character there. Photograph number 4 and I'm pointing to the location on the viewshed map is from the entry gate at the Cantonment site, this is looking southwest toward the tower and at 180 feet again,

you'll see the top 40 feet or so of the tower at 160 you'll see even less. I don't know if you can make out the bottom balloon there so I think we'll just be peeking up above the trees there.

MS. ROSENERG: Excuse me, am I correct that the top of the tower is less than 6 feet wide? My recollection is that it is.

MR. STELLATO: I believe that is about right.

MS. ROSENBERG: So we're talking about the top of the tower at a great distance. So if you look hard for it, you'll find it, just if you look, you'll see Central towers as well, I'm not talking about a huge imposing water tower.

MR. TORLEY: How big are the balloons?

MR. STELLATO: Three to four feet depending on how much helium they had in them.

MS. ROSENBERG: So we're talking maybe 2 feet wide at the top.

MR. STELLATO: Against the gray sky, you have to work to see it as well.

MR. LANGANKE: The tower is going to be 6 foot wide at the top?

MS. ROSENBERG: Yes.

MR. STELLATO: Yeah, it will taper from bottom to top.

MR. STELLATO: Again, this is really at this location photograph number 4 from the parking lot of the Cantonment site is really the only location that you can see it from there. Photograph number 5 pointing to on the map is a little further in from the monument at the same site and again, the tower is not visible in that location. I'll put these over the top and put this down below.

MS. ROSENBERG: Why don't I hold it so you can point

out the site?

MR. STELLATO: Photograph number 6 is again in the same general area, it's at the visitor's center and the tower is not visible from this location either. Photograph number 7 location on the map, and this is from the Last Encampment of the Continental Army looking southwest and again not visible from this location either. Photograph number 8 is from Southgate Village apartments and the location I'm pointing to right here near the center of the viewshed map, the proposed tower at 180 feet is visible again it's about 40 feet at the towers poking up above those trees at 160 feet you'll see about half as much tower exposed. Again, it's a distant view. Photograph number 9 is from St. Joseph's Elementary School, the location of the school is on the map just to the east of Southgate Village Apartment, the tower is not visible from that location. Photograph number 10 is from Vails Gate.

MR. REIS: Excuse me, Tony, can't see, where was Vails Gate on the map?

MR. STELLATO: Right there, it's hard to hold this thing steady.

MR. REIS: What would you say the distance is from that point to the site?

MR. STELLATO: If you can give me a second, I can compute it, it's about 36 inches so a little over a mile. Now, this is interesting because we did the balloon test at 180 feet and you can see just the top of the tower over those trees and when we reduced the height of the tower to 160 feet, I believe you won't be able to see it from that location. Photograph number 11 is the northeast corner of the limits of our study, this is from community park off Route 69 looking southwest, we're outside of the viewshed here, it won't be visible. Photograph number 12 is from the parking lot of this building, it's looking south toward the tower and you can see again just the top of the tower and I don't believe you can see the balloon tethered at 150 feet, it's, well, the 180 is the top, there's a balloon at 150 as well, I don't believe you can see

that balloon in the photograph, it's hard to tell. I think that you might just see the tip of the tower in that view and it's such a distant view, you really have a hard time picking it up.

MS. ROSENBERG: You can barely see the 180 foot.

MR. STELLATO: Right, then the last photograph we have is photograph number 13 point to the location here, photograph number 13 is from Mt. Airy Road, looking east again along the power lines, there's power lines all through that view, you can see the top of 180 feet, I'm pointing to the photograph now and 160 will be just a little lower right about there. The viewshed map really gives a more comprehensive view of the significance of this really the areas from which you'll be able to see this thing are not that great. There's not a lot of area in town that you will have a view of the tower and many of the areas such as this one this is the largest visible area, it's a distance from the tower that those views will be distant and it will be hard to pick out the tower from other encroachment from power lines and other such encroachments to the sky line.

MS. ROSENBERG: Thank you, Tony. Your zoning ordinance has a burden of proof for variances and it combines both burden of proof or area variances and use variances. Let me try to briefly address that even though as I explained before our burden is above you as a public utility, it's not the same burden as it would be if we were just coming in here as private property owner applying for a use variance which we're not. The first criteria is that there are physical conditions such as in the case of an exceptionally irregular narrow shallow or steep lot, applying to the lands or building for which the variance is sought which conditions are peculiar to such land or building and not have not resulted from any act of the applicant or prior owner. This is kind of enfolds the self-imposed hardship notion but what we have here is a request for a variance because of an absolute lack of street frontage. Now if we were not a public utility. We were Kartiganer, we'd still have a right of easement of some public right-of-way but that is a different issue

as to we'd still have to come in and get a variance for lack of street frontage. We are, however, a public utility and we're a non-residential user, we're not going to have people living in there so that the 280A standards of the Town Law which make it clear that adequate access for emergency vehicles is the minimum criteria that we're expected to meet, we do in fact meet that and then some with a 20 foot wide access easement. There's no street frontage and there just is no way we can get around that with the Kartiganer property. However, the elevation, the location immediately adjacent to the Central Hudson Power Company is an ideal remote location to put in a public utility use so we think that outweighs the question of street frontage cause you won't really put it right on Dean Hill Road, if it could be back where it is so we need a complete variance. I cited in my testimony a couple of cases where an easement for access will meet the requirements of Town Law 280A and that is what we have an access for, easement for our utilities. The second standard has to do with the strict application of the revisions of this local law would deprive the applicant of reasonable use of land or building and the granting of the variance is necessary for the use of the land or building and the variance granted by the board is the only variance that will accomplish this purpose. This is the standard that says for a use variance, I'm not able to get a reasonable use of my land, I'm being deprived of the use of my land. So I need a variance. We're not coming here to say this. We do not own the land, we're not saying it cannot be developed for residential purposes. Mr. Kartiganer may in the long run want to do that. We're coming in as a public utility, needing to provide safe and adequate service, telephone service, wireless service to this area and this is an ideal site for that. The court of appeals says there is a different standard that applies to us and I have said that and I think we meet that standard. This is a reasonable variance of height because we need the height to provide the service to the geographic area the cell is intended to serve and to provide safe and adequate service which is our standard required by the FCC. The third standard is that the granting of the variance under such conditions that the board may deem necessary or desirable to apply

thereto will be in harmony with the general purpose and intent of this local law, will not represent a radical departure, will not be injurious to the neighborhood, will not change the character thereof and will not be detrimental to public welfare. In this connection, the zoning ordinance of the town of New Windsor, individuals that you may put in a public utility facility in this district with a special permit from the planning board. The planning board has declined to take our request and application for special permit unless and until we get our variance for street frontage and I can understand that so the zoning ordinance contemplates public utility facilities in this residential district. And indeed, also a natural conflict between public utility land users on a zoning land use design. When traditionally designed zoning ordinance to provide residential districts, agricultural district, industrial district but public utilities have to be located where they serve the community so you can't have a power line in an industrial district to serve the residential district because you have to bring utilities to the community that is being served so there's often a conflict between the citing of public utilities and other traditional land use requirements. There's one such case we're in a residential district but the zoning ordinance does contemplate that a public utility use with a special permit in this district. Now, so that response is in harmony with the general purpose of this local law. Will it be injurious to the neighborhood? There are two ways in which one can raise a guess whether it would be injurious to the neighborhood, will it cause physical harm is one issue and that is an issue that has recently finally been put to bed by the Telecommunications Law of 1996. We also have a revised report for New Windsor which I gave you today, which is a study by the Lucent Technologies that evaluates the impact of our facility and measures the electromagnetic radiation from it and concludes my recollection is that some something like 1,454 times less than any applicable standard including the ANSI standard, here it is right here, excuse me, 1,375, not too bad, times below the exposure limits of OSHA, ANSI IEEE, NCRP and limits of all states that regulate exposure, all the measurements and all the technical data are in here. I

have compiled as well a fact sheet communication from the FCC, it is Exhibit G in my written testimony, tells you all about the telecommunications Act of 1996 and in particular it describes the fact that the FCC now preempts local communities from dealing with the issue of electro magnetic energy provided that the emissions comply with the standards that the FCC recognizes and this report from Lucent Technologies so concludes so that is not a viable issue any longer. In fact, it's so much below any standard that it is a thousand times zero as I had used in the past to describe it. Now, the other possible way in which a tower communications facility could affect the property or change the character of the neighborhood would be if it affected property values. And that is also legitimate concern of people what's this going to do to my property values. Now, we have prepared a statement of opinion relative to proposed transmission tower which was provided to members of the town of the zoning board prepared by American Property Counselors for this particular site. What they do is, what they do when you buy a house and you apply for a mortgage, the mortgage company sends out an appraiser and they do comparables, what's this house worth compared to other houses of similar size and so forth in the neighborhood, what's the value of it. And what they did was a similar study they took sites next to towers and they took sites away from towers and they compared what was the difference in resale value and they took sites in Orange County and Dutchess County and sites that were built with residential improvements after the towers were there, sites that were built residential improvements before the towers were there and look at the fact, the objective data, the resale values, there's absolutely no evidence that there's an adverse impact on development or on resale. Now, the most striking example is the one that they use often and I can see why, and that is the one Timberline in Alpine, New Jersey, maybe a real shocker to you, if you have seen it, it's a very dramatic example, this is a 19, this is 416 foot high tower with a broad base built in 1937, visible from Tappansee Bridge and at most of the properties in this Timberline development you can see from these photographs these houses go from 1 million to 4 million and yo

u can see that big hulking tower that was there before they built it, this is the most dramatic example of the failure to affect properties.

MR. KANE: I grew up in the town of Pine which is right next to Alpine and that is one of the most expensive areas to live in, Bergen County, it's a very beautiful area and you can't miss that tower at all.

MS. ROSENBERG: Other thing I'll cite from my own experience I live about two blocks from a very large transmission line in Maryland and it's a hundred foot wide transmission line and they are building 400, 600, \$700,000 houses up to the very edge of that transmission line and they are going like hotcakes. It is simply the fact of life nowadays that it does not discourage development. The owners, the Kartiganers who are certainly going to hope some day to develop this do not believe that it will discourage development. Hudson Valley Development Group that has acquired this property, that rather large property that goes down to Dean Hill does not believe it will discourage development. I submitted to you and for the record a letter from them saying that they support our application. So those are the ways in which it could be injurious to the community. We believe we have established that it is not injurious to the community and we believe we have established the need for this public utility facility so we ask you please to determine that this is an unlisted action, to issue a neg deck and to grant our application for variance for street frontage and for height, thank you.

MR. TORLEY: Before we continue, we have one of our letters faxed to us from the DEP directed to Mr. Nugent the chairman, this is in response to the application by Herbert and Marjorie Kartiganer for zoning variances in connection with the construction of public utility communications tower which is taller than the maximum allowable height and with less than the required road frontage on Dean Hill Road. Be advised the department opposes the granting of variances which allow non-conformance with existing town regulations. This department is especially concerned in the absence of specific plans egress and ingress to the tower and the

unmanned operations building which will be on the property directly adjoining city owned Catskill aqueduct property. If your records indicate valid access over lands not owned by the City of New York, please provide verification at your earliest convenience.

MS. ROSENBERG: That letter says opposed to the zoning board granting the variances?

MR. TORLEY: They oppose everything we have, not to receive a letter from then, this arrived this afternoon.

MS. BARNHART: Also for the record, I have an affidavit of mailing which states that that on June 26, 1996, I sent out 15 addressed envelopes with the attached notice of public hearing to the adjacent property owners.

MR. REIS: Is Maurice on that list?

MS. BARNHART: Yes.

MR. REIS: Thank you.

MR. TORLEY: There being no one, again, do either of you in the audience wish to speak? Give us your name.

MRS. CONKLIN: I represent Mr. Blumenfeld from Mt. Airy Estates and they are contemplating putting 400 homes up near Bethlehem Road and they are going to see that tower aren't they from there?

MS. ROSENBERG: I don't know.

MR. STELLATO: Can you point out where it is?

MRS. CONKLIN: I don't know where it is but I wouldn't know it on the map but you showed me places like Knox Headquarters.

MS. ROSENBERG: Let's see if you I can help you.

MRS. CONKLIN: It is on Mt. Airy Road and Bethlehem.

MR. TORLEY: Mt. Airy is over by the second reservoir.

MS. ROSENBERG: You'll see it from this area, you'll not see it from here along Mt. Airy.

MRS. CONKLIN: What about Bethlehem Road, there's 400 homes.

MR. STELLATO: You won't see it.

MS. ROSENBERG: Here's Bethlehem.

MRS. CONKLIN: Mt. Airy Road is when you go around like as you're going to--

MR. TORLEY: Isn't the development supposed to be south of that?

MR. REIS: That is right.

MRS. CONKLIN: It's like you're going up near Fayo's, all that land.

MS. BARNHART: I have a copy of the tax map which shows Mt. Airy Road, if that will be helpful?

MRS. CONKLIN: I don't know much about it.

MR. TORLEY: Doesn't look like it will be visible.

MRS. CONKLIN: He was kind of concerned because he has 400 homes.

MR. STELLATO: Here's the lake, here's Mt. Airy Road right here and this should be Bethlehem, you won't see it until you get into Vails Gate and again that is quite a ways away.

MRS. CONKLIN: Vails Gate is nowhere near Bethlehem Road.

MR. TORLEY: That is what I mean, you're a ways.

MR. STELLATO: That is what I am saying.

MR. TORLEY: Ma'am, my recollection the properties that you are referring to are probably well down in that, in the dark green with the gray area which is not visible.

MRS. CONKLIN: What about a health hazard? I hear there was a health as hard they have articles in New York City.

MR. LANGANKE: She just gave testimony.

MRS. CONKLIN: I'm just making my comments, I was told to make it by my boss, I'm making it.

MR. TORLEY: There was concern about the hand held that turned out not to be the case for the person using the phone.

MRS. CONKLIN: Those are the only questions I have to ask.

UNIDENTIFIED AUDIENCE MEMBER: The only thing I see here is that that property adjoins the Thruway, I believe, correct?

MR. TORLEY: It's not adjoining the Thruway, it's the other side of Riley Road.

UNIDENTIFIED AUDIENCE MEMBER: But it's right there.

MS. ROSENBERG: It's intended to serve the Thruway.

UNIDENTIFIED AUDIENCE MEMBER: I'm curious what the state thinks.

MS. ROSENBERG: Well, the state leases its land for telecommunications facility.

UNIDENTIFIED AUDIENCE MEMBER: I think you should be looking at an environmental impact statement.

MS. ROSENBERG: I don't see any necessity for it, I'm asking you to conclude that.

MS. ROSENBERG: We have a short, you have other short

form.

MR. REIS: Andy, the lease that was provided to the board from Hudson Valley Development Group, it's all spelled out?

MR. KRIEGER: The lease, I reviewed it and yes, seems adequate description and they do in fact have permission that they say they have.

MR. TORLEY: I'm holding a short form SEQRA for unlisted action, only first yield to our attorney for a second, is that the type of action, type of construction that falls under the unlisted category?

MR. KRIEGER: I believe it is and my recommendation to the board will be that it be classified as an unlisted action as you may recall, there are three possible, take that back, four possible classifications, Type I, Type II, unlisted, and the fourth one, yes, exempt, for the exempt and Type I and Type II it lists in the statute what that is, those categories cover, and this application does not appear to fit in my review of the statute does not appear to fit within any of those three therefore it's an unlisted action.

MR. TORLEY: And does not my recollection Telecommunications Act of '96 also places these in the least level for SEQRA?

MS. ROSENBERG: Well, the SEQRA Act is a New York State piece of legislation and Telecommunications Act does not address state by state laws.

MR. TORLEY: As far as EPA, I think cross references.

MS. ROSENBERG: The environmental issues that have to do with health effects have been specifically addressed in Telecommunications Act as I explained to you before the levels that we're talking about, FCC preempts that being an issue, it's not an issue in this case.

MR. TORLEY: Do we need to read this into the record?

MR. KRIEGER: No, just accept it.

MR. TORLEY: I think we better do this, accept as filed.

MR. KRIEGER: It doesn't require a motion because it's part of the application, no more than any part of the application does.

MR. TORLEY: Do you have questions regarding the SEQRA aspects of this?

MR. LANGANKE: How long is the lease for that you have on the property?

MS. ROSENBERG: I think it's five years, three, five year options and one year renewal after that unless one party terminates the lease.

MR. LANGANKE: Can the variance include a time element so long as the lease is in effect, the variance is in effect?

MR. TORLEY: As long as they have access by right of way.

MR. KRIEGER: Yes, so as long as they have access the lease option that they have can be renewed so you wouldn't want to put an absolute time limit here because they renew the option, they would be precluded by the absolute time limit. You can make it a condition that so long as they have access and the access is no less than is presently available. Does this answer your question?

MR. LANGANKE: Yes, it does, thank you.

MR. KRIEGER: If I may talk briefly about the SEQRA process. It is necessary to first, necessary that this be done by vote that the board declare if it is its intent that it declare itself an unlisted action or identify it otherwise as to its classification. And then once that is done, the board votes on whether or not the issue of negative dec or a positive dec. Just by way of review, let me say this, a negative dec which would end the SEQRA process if it were adopted, is a

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declaration by the board that the project has no environmentally significant impact. A positive declaration is an indication that it may have environmental significance and in order to adopt a positive declaration, it would be necessary to state on the record the areas where it may have, area or areas where it may have an environmental effect. It can't just save maybe it will somehow and vote for a positive declaration. There has to be some reason for doing that. Once a positive, if a positive declaration is adopted, then you can proceed to ask the applicant to provide or demand that the applicant provide an environmental impact statement. As I say, if the negative declaration is adopted, then that ends the SEQRA process. I know that those are things you're aware of just by way of review.

MR. LANGANKE: Does anybody have any thoughts on why this would require a positive declaration? Any specific?

MR. KANE: No, I think the only thing that would be brought up to question would be the RFF and that is covered, I can't see anything else that basically brings it up as an environmental issue.

MR. LANGANKE: I can't either.

MR. TORLEY: I'm looking at the page two of this appendix C form, Section C lists 7 criteria about what they can do and I'll pass this around to you gentlemen but I myself can see vegetation, fowl, fish or wildlife species on it, don't see any particular problem with that but I'll pass it around to see for yourself.

MR. LANGANKE: I think we have already been exposed to this.

MR. KRIEGER: You have seen that list before.

MR. TORLEY: I'll confess I did not remember every one of those. While that is going around, a couple of other questions regarding the visibility. My recollection was that you stated that during the wintertime, no leaves, the visibility will not be, gray

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area will not be greatly affected because of the trunks of trees will provide sufficient coverage?

MR. STELLATO: That is correct.

MS. ROSENBERG: I think you can't, it may be slightly more visible but it's still going to be in a bunch of, especially from a distance, a bunch of vertical tree trunks and power lines and so forth so it is not going to stand out like a water tower.

MR. TORLEY: You said that due to safety requirements which you in fact may be going above the minimum requirements for safety of air travel that this will will be sort of candy striped painted tower?

MR. STELLATO: Yes.

MR. TORLEY: With a red light, at least one red light?

MS. ROSENBERG: Yes.

MR. TORLEY: Any idea how bright the light is?

MR. STELLATO: I don't know how to explain it other than--

MS. ROSENBERG: You have seen them around on top of buildings.

MR. STELLATO: There's a FAA standard, it will not vary from this.

MR. TORLEY: So this would be, and this to give us a comparison of the only tower around here is the one over on Sarah Wells Trail?

MS. ROSENBERG: There's also one that we have on Valley View Drive in Newburgh, it's almost identical, I think it's about the same size and it's painted.

MR. TORLEY: The structure you're referring to you feel would be less, at least smaller physically and less obtrusive, you think than the one over in Hamptonburg on Sarah Wells Trail that is a 4 legged tower, it's a

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tall 4 legged tower so this would be a tripod, smaller dimensions.

MR. STELLATO: Yes, if you are familiar with the one in Newburgh, it's much more similar to that facility almost identical.

MR. REIS: What was the address for that?

MR. STELLATO: Valley View Road in Newburgh, if you you where Orange Lake is and if you go up Lake Shore Drive to Union Avenue, Lake Shore Drive and Union Avenue split off, you take a right and just before you get to the Thruway, Union Avenue goes across the Thruway there, just before you get to the Thruway overpass there's a right-hand turn, it's Valley View Road and if you go down that street, it's about a quarter of a mile you can see it on the right as it pokes up over the trees and you can get right back and look at it.

MS. ROSENBERG: I asked Tony to take some polaroids of that particular one, it is painted and depending on the weather doesn't show up as painted and those were taken relatively close.

MR. LANGANKE: I know that utility companies spend a lot of money on trying to design polls that blend in with the environment. Do you give any consideration to this on your towers at all? For instance, the color of the metal, color of the tower, do you try, do you have any resources applied to this?

MS. ROSENBERG: This tower is going to have to be painted by the FAA so we're not going to be able to, it's intended that for aviation purposes it be visible so we're not going to be able to disguise it.

MR. KANE: Might be different than normal because of the airport and the visibility.

MS. ROSENBERG: The good thing is that it is next to a power line right-of-way, you have got the utility use right there now and it is not, and it's not smack on Dean Hill Road, not on Mt. Airy Road, it's got limited visibility in times of the development.

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MR. TORLEY: Gentlemen, have you had a chance to look at this? I'll accept a motion regarding whether or not this action should be considered unlisted action.

MR. KANE: In other words, we're approving this as an unlisted action, that is the first step in the SEQRA process.

MR. KRIEGER: To declare it an unlisted action.

MR. KANE: So moved.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE

MR. TORLEY: The next step is do we feel that this meets criteria for negative declaration?

MR. KANE: Yes.

MR. TORLEY: I'll accept a motion.

MR. REIS: So moved.

MR. KANE: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE

MR. KANE: At this point, Mr. Chairman honestly I feel that I'd like to, I got this, I guess it was Wednesday and I'd like to look over the material a little bit longer. I don't think that is an unreasonable request, can we table this until our next meeting because also

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more information I'd just like to read on this right now. I'm pretty sure I'd like to but I don't know how the other members feel.

MR. TORLEY: We may have a problem with the time limits versus the SEQRA process.

MR. KRIEGER: You don't have any time limits as far as the SEQRA process anymore.

MR. KANE: According to the new federal guidelines with the scope of this that we have enough time to look at it and we're getting this just before the holiday and being away, I had the last two days to really go through it, I'd like to really read it. I didn't think you have a very negative public impact here, nobody seems to care but I'd feel a lot better being able to finish going through this material before I voted.

MR. TORLEY: The only reflection on that is we generally have one meeting in July and the next meeting we scheduled for August.

MS. BARNHART: August.

MR. KANE: Is that the case now we don't have anything coming up.

MR. LANGANKE: I have to admit I felt a lot like you did prior to coming to the meeting but I think an excellent presentation was made and I think all the questions were answered that I had so I think I can vote with confidence tonight.

MR. KRIEGER: Mr. Chairman, I do have a question. In the event of an eminent domain application, I know that you have set forth what the FAA says and so forth, but in the event that there is such an application, what's the position of the applicant with respect to defending, are they going to look to defend it or look to the town?

MS. ROSENBERG: I'm sorry, I don't understand what you're asking.

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MR. KRIEGER: Well, the court of appeals has held that an owner need not prove it was reasonable to show a loss of value in an eminent domain proceeding, if such a proceeding is brought then my question is an applicant or some part, NYNEX, some part of it, are they prepared to defend in the event of such an eminent domain proceeding or are they going to look to the town to do it?

MS. ROSENBERG: Let me think if I understand if somebody condemns what?

MR. KRIEGER: If someone argues that the value of their property has been reduced by the existence.

MS. ROSENBERG: We're not in a condemnation proceeding and nobody's condemned anything. This is simply a zoning relief for a height variance, we don't have the power of eminent domain so this is never going to come up and in terms of perception that was an unusual case where the issue was what was the value of the property before and after. With the new Telecommunications Act of 1996, the health affects issue is gone, it really is gone, it's preempted by federal legislation.

MR. KANE: Was that the base of that discussion?

MS. ROSENBERG: Yes, we're worried about what this, the health affects, people are worried about living near power lines, that whole issue and therefore, it's going to affect my resale value. Well, I think we have provided you with evidence that it doesn't have any adverse impact.

MR. KRIEGER: Even if that evidence is sufficient, arguendo as we say to satisfy this board, or satisfy the town, or to satisfy any person whom you deem to be reasonable, in the event that an application is going to be made by person's whom you may not consider reasonable, what would be the position of the--

MS. ROSENBERG: Are you suggesting someone's going to bring a claim of inverse condemnation?

MR. KRIEGER: Yes.

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MS. ROSENBERG: Sure, well, we will defend that, absolutely.

MR. KRIEGER: Okay, well, in terms of help you're going to looking to the--

MR. TORLEY: Who is going to pay?

MR. KRIEGER: --to the town.

MS. ROSENBERG: I gather that is his question, we would pay. First of all, the town hasn't taken any action but an inverse condemnation action can only be brought when the town's done something by way of taking property that affects somebody else's property or I don't, well, in any event, the short answer to your question is surely we would pay for the defense assuming that we could participate in the defense.

MR. KRIEGER: Okay, that is the answer.

MR. TORLEY: That is the answer.

MR. REIS: I have got a question. This jog in the existing right-of-way, where you are taking it off to the left, can you, is there a basis for that?

MS. ROSENBERG: The developer requested, he had a version of a proposed subdivision plan that he might, may want to develop in the future. The way the road goes in right now, it would go right through the lot so it has to take a jog.

MR. REIS: Does that eliminate the existing right-of-way and change the whole layout of the right-of-way?

MS. ROSENBERG: No, because there's still a hundred foot wide right-of-way but it gets access, does not go in that right-of-way, he'd still have to deal with the telephone company hundred foot wide right-of-way.

MR. REIS: My question is you're creating another right-of-way that they are allowing you to do.

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MS. ROSENBERG: We're taking the existing road which is a hundred foot right-of-way but taking a slight jog over a portion of that to accommodate the property owner and going to the existing driveway in the right-of-way.

MR. REIS: The existing right-of-way stay in its existing space?

MS. ROSENBERG: As it is now, yes, it's a hundred foot wide.

MR. TORLEY: It's somebody else's right-of-way.

MR. REIS: So you will have basically there's going to be two right-of-ways?

MS. ROSENBERG: In theory, yes, but the other one is not being used right now.

MR. TORLEY: Could be.

MS. ROSENBERG: Yeah.

MR. KRIEGER: Existing right-of-way stays no matter what they do, they have that in their pocket so to speak. The additional jog would be an exception to or addition to if you will.

MR. REIS: Well, the reason for Hudson Valley giving it is obviously to develop to be able to develop the land to the west of that jog.

MS. ROSENBERG: Right in the future they are going to have to deal with coming in and asking the telephone company to release that portion, it doesn't automatically do that.

MR. REIS: So they'll have to go through that procedure?

MR. KRIEGER: Yes.

MR. TORLEY: Not the applicant, the owner.

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MR. KRIEGER: At that future time, yes.

MR. REIS: For the record, I have found that contrary to what you presented here, I don't have an argument but I have found that towers do effect negatively on values or they are perceived to affect negatively on values, being that the neighbors I have given you this, okay, in the form of a lease and Kartiganer giving you the lease to the property, I don't have a problem with it.

MR. TORLEY: I don't think it's a problem.

MR. KANE: I'm kind of stunned that nobody's here.

MS. BARNHART: The people that are here do not want to sign.

MR. KANE: I withdraw my request on that, if you would accept a motion.

MR. TORLEY: Yes providing our attorney is satisfied with the record.

MR. KRIEGER: Yes.

MR. TORLEY: I'll entertain a motion.

MR. KANE: I move that we approve the application of Kartiganer and Orange County Poughkeepsie for the requested variances for the public utility communications tower.

MR. LANGANKE: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE

MS. ROSENBERG: Thank you, gentlemen, we still go to the planning board.

July 8, 1996

71

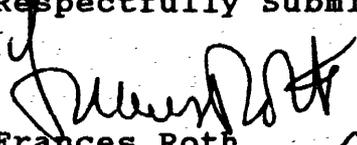
MR. REIS: Move that we adjourn.

MR. KANE: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE

Respectfully Submitted By:


Frances Roth
Stenographer

7/29/96



Rec'd: 7/23/96
ZBA -
(PAB) -

July 8, 1996

New York City
Department of
Environmental
Protection

FAXED: 7/8/96

James Nugent, Chairman
Town of New Windsor Zoning Board
555 Union Avenue
New Windsor, N.Y. 142553

Bureau of Water
Supply, Quality &
Protection

Re: Zoning Board of Appeals
Hearing, July 8, 1996
TM: 65.-1-17

465 Columbus Ave.
Valhalla, New York
10595-1336

Dear Mr. Nugent:

MARILYN GELBER
Commissioner

This is in response to an application by Herbert and Marjorie Kartinganer/MSA Limited Partnership for zoning variances in connection with the construction of a public utility communications tower which is taller than the maximum allowable height and with less than the required road frontage on Dean Hill Road.

WILLIAM N. STASJUK
Deputy Commissioner

Be advised this Department opposes the granting of variances which allow non-conformance with existing Town zoning regulations. This Department is especially concerned, in the absence of specific plans, with egress and ingress to the tower and the unmanned operations building which will be on property directly adjoining City-owned Catskill Aqueduct property located to the east of tax lot 17.

If your records indicate valid access over lands not owned by the City of New York, please provide verification of this at your earliest convenience.

Very truly yours,

Marilyn Shanahan
Manager
Office of Water Supply Lands

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
APPLICATION FOR VARIANCE

96-34

Date: 6/26/96

I. Applicant Information: (See Attached)

- (a) Herbert and Marjorie Kartiganer
(Name, address and phone of Applicant) (Owner)
- (b) Orange County-Poughkeepsie MSA Limited Partnership
(Name, address and phone of purchaser or lessee)
- (c) Ruth B. Rosenberg, P.C.
(Name, address and phone of attorney)
- (d) Tony Stellato
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- Use Variance
- Area Variance
- Sign Variance
- Interpretation

III. Property Information:

- (a) R-I Dean Hill Road, New Windsor 65-1-17 25 x 63 acres
(Zone) (Address) (S. B L) (Lot size)
- (b) What other zones lie within 500 ft.? R-3
- (c) Is a pending sale or lease subject to ZBA approval of this application? Yes
- (d) When was property purchased by present owner? _____
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? No
If so, when? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: No

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) _____

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes No X.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section , Table of Bulk References Regs., Col. H & I.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area <u>3 acres</u>	<u>25.63 acres</u>	<u>0</u>
Min. Lot Width <u>300 feet</u>	<u>492 feet</u>	<u>0</u>
Reqd. Front Yd. <u>100 feet</u>	<u>923 feet</u>	<u>0</u>
Reqd. Side Yd. <u>100/200</u>	<u>132/181 feet</u>	<u>0</u>
Reqd. Rear Yd. <u>100</u>	<u>191 feet</u>	<u>0</u>
Reqd. Street Frontage* <u>100 feet</u>	<u>0</u>	<u>100 feet</u>
Max. Bldg. Hgt. <u>18 feet</u>	<u>160 feet</u>	<u>142 feet</u>
Min. Floor Area* <u>750</u>	<u>328 & 293</u>	
Dev. Coverage* <u>20%</u> %	<u>0.4</u> %	<u>0</u> %
Floor Area Ratio**	<u>N/A</u>	
Parking Area <u>1 for each on site employee</u>	<u>2</u> (no onsite employees)	<u>0</u>

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

See Attached

(You may attach additional paperwork if more space is needed)

VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation.

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. I

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

APPLICATION FOR VARIANCE

ORANGE COUNTY POUGHKEEPSIE LIMITED PARTNERSHIP

I. Applicant Information:

- a. Name, address and telephone number of Applicant
Herbert and Marjorie Kartiganer
3928 Live Oak Boulevard
Delaire Country Club
Delray Beach, Florida 33445
(561) 496-3239

- b. Name, address and telephone number of Purchaser or Lessee
Orange County-Poughkeepsie MSA Limited Partnership
180 Washington Valley Road
Bedminister, NJ 07921
Attention: Joe Ross
(518) 433-0185

- c. Name, address and telephone number of Attorney
Ruth B. Rosenberg, P.C.
Nixon, Hargrave, Devans & Doyle LLP
One Thomas Circle, N.W.
Suite #700
Washington, D.C. 20005
(202) 457-5315

- d. Name, address and telephone number of Contractor/Engineer/Architect
Tony Stellato
Clough Harbour & Associates
111 Winners Circle
P.O. Box 5269
(518) 453-4500

V. (b) This application involves the construction of an Essential Service serving the Town of New Windsor, as that term is defined in the Zoning Ordinance. This public utility communications facility consists of a 160' high free standing tower, an equipment shelter, and a chain link fence with three stands of barbed wire on top. The communications tower is designed to receive and transmit cellular telephone

calls in a geographic area called a cell site. The height is required to achieve good transmission and reception. Cellular telephone services have been determined by the New York Court of Appeals to be public utility uses and provide a service for the public good and welfare. This tower is in a remote wooded area, adjacent to a Central Hudson Gas and Electric right-of-way with 65+ towers and wires; and adjacent to an existing telephone company 100' wide right-of-way. There will be no adverse effect on residential development and we will demonstrate that at the time of the hearing.

Section 48-37 of the Zoning Ordinance (Definitions) defines Essential Service as follows: "The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground, surface or overhead, gas, electrical ...systems, including poles, wires, mains,cables,...telephone lines...and other similar equipment and accessories herewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety or general welfare."

We believe that this Essential Service communication facility meets the criteria for a height variance.

The bulk regulations require 100 feet of street frontage for "railroad, public utility radio and television transmission antennas and rights-of-way". This is a rather unusual requirement since railroads and rights-of-way often are merely easements and not fee owned parcels. In this case, there is an existing 100' wide telephone company easement running from Dean Hill Road to and past the public utility facility site. Within this 100' wide easement the current owners of the two properties through which the access road and utilities will be brought, have granted another easement 25' wide for this public utility communications facility. At the request of one of the owners, Hudson Valley Development Group of New Windsor LP, we have jogged outside the existing 100' wide easement in order to accommodate its future subdivision development plans.

The proposed 25' wide easement will provide ample access to the site for emergency vehicles, as contemplated by Town Law Section 280-a 5, which provides that access means sufficient frontage on a street to allow the ingress and egress of fire trucks, ambulances, police cars and other emergency vehicles, and, a frontage of 15 feet shall presumptively be sufficient for that purpose. Paragraph 3 of that Section permits the Zoning Board to grant relief from a Town Law requirement of street frontage before a lot can be determined buildable.

The Town of New Windsor's ordinance is even more restrictive, requiring 100' of street frontage for this public utility purpose. Since, however, this use is very much like a transmission line use, i.e. the facility will have no employees, no water, no sewer, it is simply communication equipment on a tower and in an equipment shelter, the 100' street frontage requirement serves no public welfare purpose. Moreover, the placement of the facility in a remote wooded area immediately adjacent to a Central Hudson Gas and Electric right of way permits the optimal screening of the facility in this R-2 district.

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

**ORANGE COUNTY-POUGHKEEPSIE MSA LIMITED PARTNERSHIP
D/B/A BELL ATLANTIC NYNEX MOBILE, INC.**

**APPLICATION FOR SPECIAL USE PERMIT AND SITE DEVELOPMENT PLAN REVIEW
BEFORE THE PLANNING BOARD OF THE TOWN OF NEW WINDSOR**

**Written Testimony and Exhibits
April, 1996**

**WRITTEN TESTIMONY AND EXHIBITS
REGARDING APPLICATION FOR
SPECIAL USE PERMIT AND SITE
DEVELOPMENT PLAN REVIEW
BEFORE THE PLANNING BOARD OF THE TOWN OF
NEW WINDSOR**

**Submitted by
Ruth B. Rosenberg, P.C.
Nixon, Hargrave, Devans & Doyle LLP
One Thomas Circle, N.W., Suite 700
Washington, D.C. 20005**

**ORANGE COUNTY-POUGHKEEPSIE MSA LIMITED PARTNERSHIP
D/B/A BELL ATLANTIC NYNEX MOBILE, INC.**

**APPLICATION FOR SPECIAL USE PERMIT AND SITE DEVELOPMENT PLAN REVIEW
BEFORE THE PLANNING BOARD OF THE TOWN OF NEW WINDSOR**

I. DESCRIPTION OF PROJECT

On December 30, 1994, Orange County-Poughkeepsie MSA Limited Partnership, a Delaware general partnership d/b/a Bell Atlantic NYNEX Mobile, Inc. ("NYNEX" or the "Telephone Company"), entered into an Option and Lease Agreement with Herbert and Marjorie Kartiganer ("Lessors") for a part of Lessor's real property, more particularly described as a portion of Tax Map Number 65-1-17. The Telephone Company intends to use the Demised Premises, as a public utility communications facility site ("Facility Site"), and will enjoy a 25' wide nonexclusive access and utility easement (the "Access and Utility Easement") extending from Dean Hill Road to the Facility Site. A portion of the Easement is offsite and crosses the lands of Hudson Valley Development Group of New Windsor, L.P., which has granted an easement to the Telephone Company for access and utilities. The Telephone Company will construct and operate a public utility communications facility (the "Facility") consisting of an 160' high freestanding communications tower with attached equipment, a prefabricated one-story fireproof equipment shelter placed on a concrete slab, and a concrete pad for a generator, all contained within an 8' high chain link security fence the top foot of which is three strands of barbed wire. The gravel driveway will give access to a gravel parking and turn-around area. The proposed Facility will be unmanned; there will be no employees at the site, nor will there be water or bathroom facilities. A Telephone Company van will make bimonthly visits for regular maintenance. A Site Plan package prepared by Clough, Harbour & Associates LLP, detailing the location dimensions of the improvements is attached hereto as *Exhibit A*.

The Telephone Company is a public utility under New York law, and is licensed by the Federal Communications Commission to provide cellular telephone service to the market encompassing the Town of New Windsor and surrounding areas, and was granted a Certificate of Public Convenience and Necessity by the New York State Public Service Commission ("NYPSC") (a copy of the FCC license and the NYPSC Certificate of Public Convenience and Necessity are attached hereto as *Exhibits B* and *C*). The New York Court of Appeals has held that cellular telephone companies licensed by the FCC are public utilities for the purposes of zoning and land use ordinances (Cellular Tel. Co. v. Rosenberg, 82 NY 2d 364 (1993); In re Payne, 178 AD 2d 979 (4th Dept. 1991)).

The Facility Site is located in a R-2 Open Space Residential District, which permits railroad, public utility radio or television transmission antennas and rights-of-way with a special use permit issued by the Planning Board as shown on the Table of Use/Bulk Regulations of the New Windsor Zoning Ordinance (all section references, unless otherwise noted, are to the New Windsor Zoning Ordinance). The Facility site is located near a Central Hudson Gas & Electric utility easement for overhead transmission lines and can be reached via an existing NYNEX right-of-way from Dean Hill Road. The Facility will be located near the summit of the hill where both right-of-ways intersect.

The Telephone Company commissioned a Visual Resource Evaluation from Clough, Harbour & Associates LLP to better illustrate the context in which to view the Facility. It includes photographs taken from various locations around the proposed site and a viewshed analysis which was used to determine the locations from which the proposed communications tower would be seen and the nature of the visual impact. The Visual Resource Evaluation is included as *Exhibit D*.

II. PROJECT NEED

The Telephone Company is charged with the responsibility of providing cellular telephone service in various parts of New York, including the area in and around the Town of New Windsor. The Telephone Company has planned this project in order to fulfill its obligation to provide good quality cellular telephone service to emergency services, businesses, and individuals.

The Federal Communications Commission ("FCC") has divided the entire country into service areas and has assigned two licenses for each area for cellular telephone services: the "A" license for companies which are not wireline telephone companies; and the "B" license for wireline telephone companies. The Telephone Company has a "B" License.

Cellular telephones have become an important tool for citizens to report accidents or other emergencies, crimes and drunk drivers, leading to prompt response by police and emergency services personnel. Police and rescue workers also rely increasingly on cellular telephones for communication during emergencies such as snowstorms, when regular telephone service is inadequate or unavailable.

Essentially, cellular telephone service operates by transmitting a very low power radio signal (less than ten watts per channel) between the cellular telephone and an antenna mounted on a tower, pole, building or other structure. The antenna feeds the signal to electronic apparatus housed in a small equipment shelter near the antenna, where it is connected to an ordinary telephone line, and is then routed anywhere in the world. The antenna and equipment building are known as a "cell site."

A cell site is capable of transmitting to and from cellular phones only within a limited geographic area. This limited geographic area is called a "cell." A cell site must be located within a prescribed area in order to provide coverage for the entire cell.

Cellular telephone technology requires that cells overlap somewhat in order to provide uninterrupted service. When the cellular user moves into a new cell, the transmission is automatically transferred to the cell site in the new cell. If there is no cell site in the new cell, there is no cellular telephone service. See *Figure 1*.

Because each cell site must be placed in such a manner as to provide service within a particular cell, and to provide overlapping (but not duplicate) coverage with the existing or planned cells around it, there is limited flexibility as to where a cell

Graphic - HOW IT WORKS / A CELLULAR PHONE SYSTEM, by Robert Dorrell, "Washington Business", *The Washington Post*, dated October 23, 1995.

site can be placed. In the present case, the Telephone Company needs coverage and capacity in this area of the Town to provide service to the public.

In a January 2, 1996, news release in Warren Publishing, Inc.'s *Communications Daily* it was reported that the U.S. now has 31 million cellular phone users, up from 10 million just two years ago.

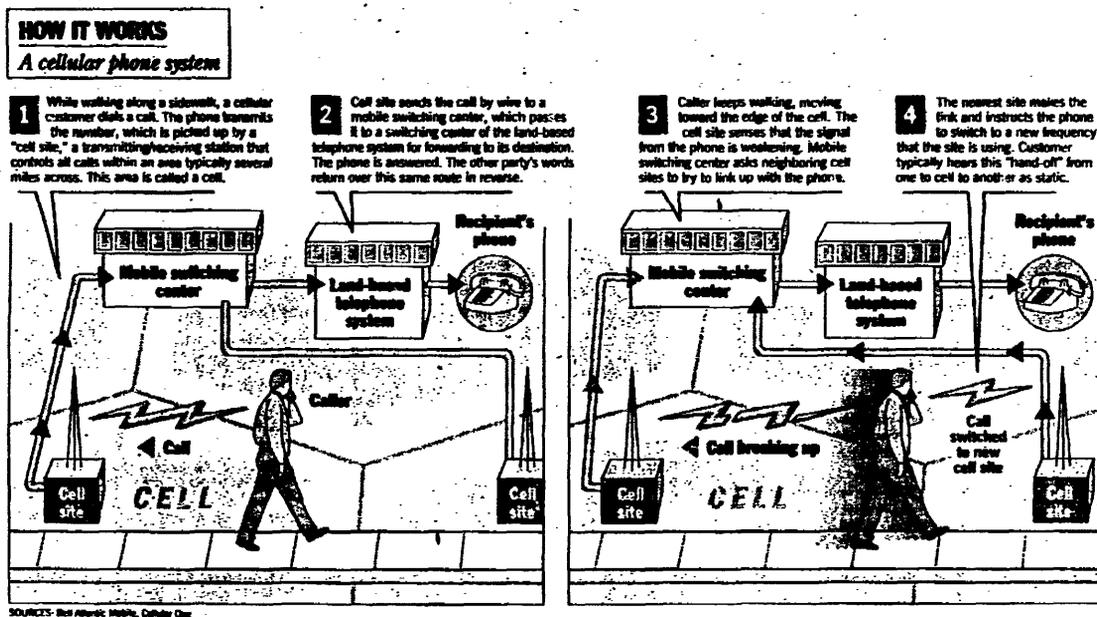


Figure 1

A news article in *The Washington Post* on March 19, 1995, observed that:

Thanks to a cellular phone, rescue workers arrived in time to cut the umbilical cord from around the neck of Cheyenne Snow Burr . . . The ordeal might have been featured on the TV Show "Rescue 911," except that tales of cellular phones saving the ill or stranded aren't very unusual anymore.

An August 29, 1995, *Post* article reported:

[Cellular phones were once] considered an accessory carried by yuppies who conspicuously called associates from chic restaurants, the cellular phone is rapidly becoming a personal safety device. According to a poll taken by the Cellular Telecommunications Industry Association (CTIA), . . . two thirds of all cellular customers bought their phones for safety and security reasons . . . "If a cellular phone is within your budget, as relatively inexpensive as it is, you should have one," [1st Sgt. Joe Pruitt [of the Maryland State Police] says.

Copies of all three articles are attached as *Exhibit E*.

In a May 22, 1995, article published in the American Medical Association's *American Medical News* it was reported that:

For many physicians a cellular phone has become a necessary tool that makes their lives easier. It makes them available to their patients for emergencies and allows them to keep in touch with their office while they travel between home, the hospital and the office. . .

For sheer ease of use and accessibility, no new technology has revolutionized communications like the cellular phone. Everyone from truckers to executives to physicians seems to have a cellular phone these days. Whether built into an automobile or a hand-held portable phone . . . cellular phones are a prominent part of the landscape . . .

Cellular phones' phenomenal growth over the last decade is due mainly to the convenience a cell phone offers, and the safety it provides. In a 1992 survey by the Gallup organization, more than a third of respondents said they had used their cellular phones to summon roadside assistance. Fully 90% said having the phone makes them feel more safe and secure. More than half have used it to get directions.

On September 18, 1995, the *Central New York Business Journal* printed an article discussing trends in growth and technology in the cellular industry. Cellular phones have been installed in the Richardson Texas School system. One advantage of doing so is the elimination of the need to install phone lines. The average age of schools in Texas is 50 years, a big issue in renovation is the asbestos. With a wireless system, asbestos is not disturbed.

Closer to home, the article notes that:

"The New York State Department of Transportation has found the use of cellular phones a convenience as well as a safety feature . . . In the past, roadside message boards weren't always updated immediately. Now, the signs are installed by a crew, and messages programmed back of the office are delivered over cell phones to the sign, for instantaneous display. Warning signs go up immediately; detour signs disappear as soon as they are no longer needed. This system is already in place in the Albany area, and we have plans to install it in the Syracuse, Buffalo, and Rochester areas soon."

A June 26, 1995 article in *Mobile Phone News* reported that:

About 16 percent of U.S. households said they bought a cellular phone in 1994 for business use, the study said. Another 25 percent said personal use was the driving factor in mobile phone purchases. However, a 58 percent chunk of all cellular telephone users mix business and personal calls [Electronic Industries Association] said in its "The U.S. Consumer electronics Industry in Review -- 1995 Edition."

III. SPECIAL USE PERMIT

The Planning Board reviews applications for special use permits in the Town of New Windsor. Issuance of special permits is covered in § 48-35, and states the "[b]oard shall take into consideration the public health, safety, and welfare and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the express intent of this local law and the accomplishment of the following objectives:

- (1) That all proposed structures, equipment and material shall be readily accessible to fire and police protection."

The Telephone Company will make periodic maintenance visits to the Facility site, which will be accessible via an existing easement connecting the site to Dean Hill Road. Any fire or police vehicles which need to visit the site will be able to reach the site by the same right-of-way. The Facility itself poses no detriment to the health, safety, and welfare or the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular area of New Windsor. The comfort and convenience of the public will no doubt be enhanced by the new availability of high quality cellular telephone service. The Facility is licensed by both the FCC and the New York State Public Service Commission to provide service to the community (see *Exhibits B* and *C*). The technology used is safe in general, and specifically for Facility. A report by Ronald Petersen, of AT&T's Bell Laboratories' Radiation Protection and Product Safety Department, on the safety of this communications facility, having applied the worst case assumptions that all of the equipment was simultaneously and continuously in operation, has concluded (at p. 7):

The results of this analysis indicate that the maximum level of RF energy to which the public may be exposed will meet all applicable health and safety limits. Specifically, in all normally accessible areas surrounding the facility, the maximum level of RF energy associated with *simultaneous and continuous operation of all transmitters* will be at least **1375 times** below the exposure limits of OSHA, ANSI, IEEE, NCRP and the limits of all states that regulate RF exposure.

A copy of that Analysis is attached hereto as *Exhibit F*.

The standards continue:

- "(2) That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and

orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties."

As illustrated in the Visual Resource Evaluation (attached as *Exhibit D*) the Facility Site is surrounded by woods and construction of this Communications Facility will not affect future development of the surrounding properties. The Facility Site will generate no traffic; there will be no unusual demand on other public utilities, such as electricity. There will be natural run off and drainage of storm water. There will be no employees on site and no sanitary sewer requirements.

The public utility communications facility will not adversely affect property values and will not impede further development of the adjacent Open Space Residential or Suburban Residential areas. A Market Study prepared by American Property Counselors dated March 30, 1996, examined the impact of the construction of a public utility communications facility on a residential neighborhood community, and it states at page 6:

There is a very dramatic example of land use adjacent to a tower in this region . . . the Armstrong tower in Alpine, New Jersey, near Palisades Interstate Parkway and just south of the New York state line. Alpine, New Jersey is one of the most affluent suburbs in the New York metropolitan area. [The self-supporting 416' high tower] is readily visible from the Tappan Zee Bridge and . . . [f]rom close up . . . is unavoidable and overwhelming. Lots near the tower were among the first built, and the development has been expanded. Vacant two acre lots have sold for prices above \$700,000, and most houses are worth between \$1,500,000 and \$4,000,000.

The Report also looked at two other towers in Orange County and three towers in neighboring Dutchess County. The Appraiser's Report reviews the market history including 31 sales and resales of 13 homes in close proximity to these towers (Appraiser's Report, p. 23). The conclusion of the Impact Study provides that the homes near the towers in Orange County sold for higher prices than the local norms and houses near the three towers in Dutchess County appreciated at a similar or greater rate than houses sold in Poughkeepsie, Hyde Park and Dutchess County as a whole in the period 1982-1990 (Appraiser's Report, p. 27). It concludes:

Based on our experience, observations and an impact study involving five communications towers in Orange and Dutchess Counties, we see no basis for predicting any deleterious effect on neighborhood land use patterns or nearby real estate values.

The complete report is included hereto as ***Exhibit G***.

"(3) That, in addition to the above, in the case of any use in or directly adjacent to a residential district:

(a) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said residential district nor conflict with the normal traffic of the neighborhood."

The bimonthly maintenance visits to the Facility Site will not cause any traffic congestion to any of the nearby roads and there will be no pedestrian traffic.

B. Each application for a special permit use shall be accompanied by a proposed plan showing the size and location of the lot and location of all buildings and proposed facilities, including access drives, parking areas and all streets within two hundred (200) feet of the lot.

The Site Plan package, dated April 1, 1996, was submitted to the Planning Board with the Application for Special Use Permit and Site Plan Review by letter dated April 1, 1996.

IV. SITE DEVELOPMENT PLAN REVIEW

Section 48-19 of the Zoning Ordinance states "[i]n all cases where this local law requires approval of site plans, no building permit shall be issued by the Zoning Inspector except upon authorization of and in conformity with plans approved by the Planning Board. While we can find no provisions in the Zoning Ordinance requiring approval of site plans for public utility facilities, we are responding to the requirements for this permit without conceding the applicability.

A. Objectives. In considering and acting upon site plans, the Board shall take in consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the proposed development and the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this local law and the accomplishment of the following objectives in particular:

- (1) Traffic access. That all proposed traffic access and ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.
- (2) Circulation and parking. That adequate off-street parking and loading spaces are provided to prevent the parking on public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.

The site plan (*Exhibit A*) indicates that access to the proposed Facility is across the right of the Lessor and by easement through the property of Hudson Valley Development Group of New Windsor, L.P. The gravel access drive is 12' wide. The access drive leads to a parking and turn-around area which provides two off-street parking spaces just outside the security fence. Since there are no employees on the site, this provision of two spaces will be more than adequate. The only traffic to the Facility after construction will be the maintenance van, once every two months, no other accessibility would be required.

- (3) **Landscaping and screening.** That all playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over eight (8) inches in diameter measured three (3) feet above the base of the trunk shall be retained to the maximum extent possible.

The Facility Site is wooded. Only those trees and existing vegetation that must be removed for the driveway or the communications facility improvements inside the security fence will be affected.

V. CONCLUSION

We believe the Telephone Company has provided evidence supporting the issuance of a special use permit, and site plan approval. We urge the Planning Board first to find the proposal an unlisted action; then to issue a negative declaration, and finally to grant the relief requested.

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 34

Request of HERBERT and MARJORIE KARTIGANER/ORANGE COUNTY
POUGHKEEPSIE MSA LIMITED PARTNERSHIP
for a VARIANCE of the Zoning Local Law to permit:

construction of a public utility communications tower with less than the allowable street frontage on Dean Hill Road and more than the allowable maximum height;

being a VARIANCE of Section 48-12 - Table of Use/Bulk Regulations,
Columns H & I,

for property situated as follows:

North side of Dean Hill Road adjacent to existing telephone company right-of-way, New Windsor, New York,

known as tax lot Section 65 Block 1 Lot 17

SAID HEARING will take place on the 8th day of July,
19 96, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P. M.

JAMES NUGENT
Chairman

RECEIVED
JUL 27 1996

OWSL

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 96-11

DATE: 10 JUNE 96

APPLICANT: D.C. PUGHKEEPSTE MSA L.P.

46 BROADWAY

MENANDS N.Y. 12204

ATT: JOE ROSS

(518) 424-0135

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 19 MARCH 96

FOR (~~SUBDIVISION~~ - SITE PLAN) _____

LOCATED AT NORTH SIDE DEAN HILL RD

ZONE R-2

DESCRIPTION OF EXISTING SITE: SEC: 65 BLOCK: 1 LOT: 17

IS DISAPPROVED ON THE FOLLOWING GROUNDS: _____

VARIANCE REQ'D FOR FRONTAGE.

VARIANCE OR INTERPRETATION CONCERNING

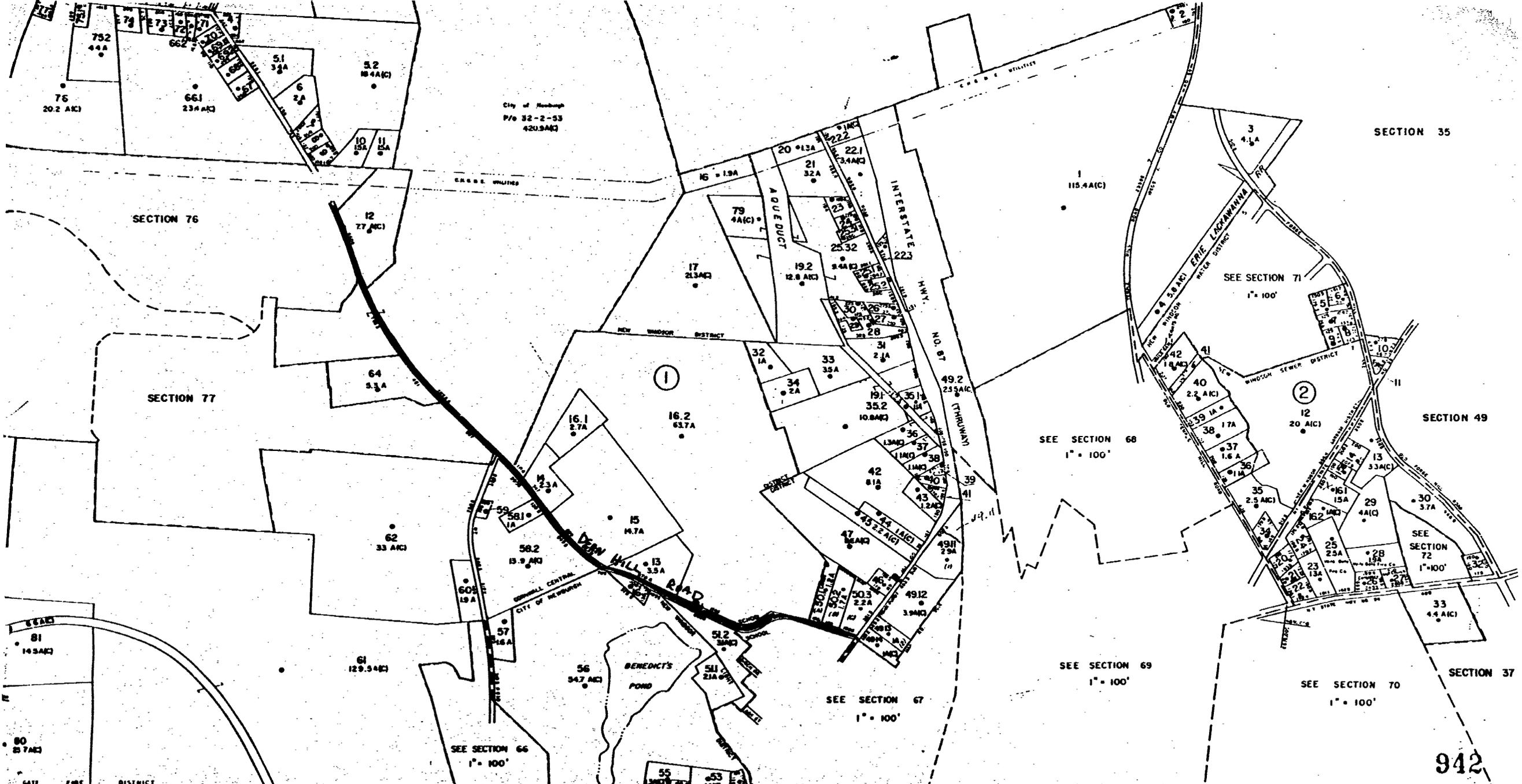
TOWER HEIGHT.


MARK J. EDSALL P.E. FOR
MICHAEL BABCOCK,
BUILDING INSPECTOR

<u>REQUIREMENTS</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>R-2</u> USE <u>B-6</u>	<u>TOTAL PARCEL</u>	
MIN. LOT AREA	<u>3 ACRES</u>	<u>25.63 A</u>
MIN. LOT WIDTH	<u>300 FT</u>	<u>492</u>
REQ'D FRONT YD	<u>100 FT</u>	<u>923</u>
REQ'D SIDE YD.	<u>100 FT</u>	<u>132</u>
REQ'D TOTAL SIDE YD.	<u>200 FT</u>	<u>313</u>
REQ'D REAR YD.	<u>100 FT</u>	<u>191</u>
REQ'D FRONTAGE	<u>100 FT</u>	<u>0</u>
MAX. BLDG. HT. <small>ALSO TOWER PER DEF'N ON p. 4891</small>	<u>18 FT</u>	<u>BLDG = 10 FT. TOWER = 160 FT</u>
FLOOR AREA RATIO	<u>4/1</u>	<u>BLDG — TOWER 142</u>
MIN. LIVABLE AREA	<u>750</u>	<u>—</u>
DEV. COVERAGE	<u>30 %</u>	<u>— %</u>
O/S PARKING SPACES	<u>2</u>	<u>—</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE



TOWN 54 OF 52 CORNWALL

ORANGE COUNTY-NEW YORK

TOWN OF NEW WINDSOR

LEGEND		TAX MAP BLOCK NO. 35	
STATE OR COUNTY LINE	FILED PLAN LOT LINE	TAX MAP BLOCK NO.	FILED PLAN BLOCK NO.
CITY TOWN OR VILLAGE	EASEMENT LINE	TAX MAP PARCEL NO.	FILED PLAN LOT NO.
BLOCK B. SECTION LIMIT	MARCH LINE	AREA	STATE OWNERS
SPECIAL DISTRICT LINE	STREAMS	BUILDINGS (Drawn to Scale)	COUNTY OWNERS
PROPERTY LINE			TOWN ROADS

Photo No. 15-16, 7-345
Date of Photo: 3-1-65

Date of Map: 3-24-67
Date of Revision: 8-11-77

Section No. 65

REGULAR ITEMS:

O.C. POUGHKEEPSIE MSA LIMITED PARTNERSHIP (96-11) MT.
AIRY ROAD

Ruth Rosenberg, Esq. appeared before the board for this proposal.

MS. ROSENBERG: Good evening, my name is Ruth Rosenberg, I'm an attorney with the law firm of Nixon, Hargrave, Evans and Doyle, I represent Orange County Poughkeepsie Limited Partnership, managing partner Bell Atlantic NYNEX Mobile. The application tonight is for a public utility communications facility off of Dean Hill Road. Under your definition, under your zoning ordinance, it's consensual service. The site is far back off Dean Hill Road, as you can see, on the site plan that you have in front of you, there's an existing hundred foot wide, I think it's an AT&T or New York Tel right-of-way that goes back from Dean Hill Road and continues on an intersection with Central Hudson Gas and Electric transmission lines. There's an existing road that is accessed along the hundred foot wide right-of-way and I believe that right-of-way has been there since 30's or 40's, I don't have it with me tonight but it's been there a very long time. Mr. Kartiganer and Mrs. Kartiganer purchased this triangular piece and it goes on over this way some time ago. We have a lease to place this public utility facility right adjacent to the boundary line of the hundred foot wide New York Tel or AT&T right-of-way almost at the intersection of the Central Hudson Gas and Electric transmission line. This site will consist of--

MR. PETRO: Excuse me one second, the Central Hudson, is that the gas power lines so it will be right next to the power lines?

MS. ROSENBERG: Yes. The access will be a 20 foot wide easement and now this whole property below the Kartiganers to Dean Hill Road as it comes around as I'm pointing out with my pointer is now owned by Hudson Valley Development Group of New Windsor LLP. At their request, first of all, they granted us a 20 foot wide

easement through their property and at their request, they have asked us to make this jog here and we have done so and we pick up the, within the hundred foot wide New York Tel right-of-way, but also specific 20 foot, 25 foot wide easement for access for utilities up to the facility site.

MR. PETRO: Why did they want the jog?

MS. ROSENBERG: If they ever develop their subdivision, that would be the place where they think they logically would have a street that would eventually become a public street, they asked us to do that so they can take advantage and won't have to relocate anything when they plan their subdivision.

MR. PETRO: Off your right-of-way?

MS. ROSENBERG: No, here. They are planning some lots in here or something but they asked us to do the jog since we haven't gone up there and improved the road, we agreed to do that.

MR. PETRO: Can you see any reason for the jog?

MR. EDSALL: I would only assume as Mrs. Rosenberg has indicated it may coincide with some layout they had done in the past. I'm sure that the existing NYNEX right-of-way would cut through some lots but maybe their layout has structures on the far side and driveways over the right-of-way.

MS. ROSENBERG: In any event, we have in hand an easement from them.

MR. LUCAS: I'm sorry just worried about the restriction for the emergency trucks, something going up their road.

MS. ROSENBERG: It's 25 feet wide.

MR. PETRO: 20, 25 or 20?

MS. ROSENBERG: 25.

MR. PETRO: All right, it's 25, I see it.

MS. ROSENBERG: Yes.

MR. BABCOCK: The road width will be 25 feet wide.

MS. ROSENBERG: No, roadway will be 12 feet wide. As we get to the top, there's an enlargement, this is the northwesterly boundary line and the easement, here's the easterly boundary line of it, so you see our gravel driveway as it will be ultimately finished will continue right up within that hundred feet width and the turnaround which will accommodate two parking spaces. The site is woods now and only those trees that will be required to be removed will be. And in the site that I am pointing to now with the pointer will be 160 foot high freestanding tower and equipment shelter and connecting ice bridge. All around the site will be gravel. There will be natural drainage into the ground. This is an unmanned facility like the substation. There are no employees that are going to be up there. There's no water. There's no bathroom. The drainage will be natural into the ground. The site will be serviced probably twice a month by a telephone company van and it will, it is, as I said before, almost at the point of the Central Hudson Gas and Electric transmission line, cleared right-of-way as you're probably very familiar with takes a jog right there and the AT&T or New York Tel easement continues on across that Central Hudson right-of-way.

MR. LUCAS: What services power to this, electricity come up the--

MR. JOE ROSS: We're going to run the line up, I think that is really, my name is Joe Ross, by the way, I'm project manager on this site for the real estate and I think really what the jog in the right-of-way is mainly for, see I think he wants to take in the power somehow or another up there so we're running a line of electricity in our telephone lines up through the site.

MS. ROSENBERG: Over here?

MR. ROSS: In the easement.

MS. ROSENBERG: In the easement, yeah, it's actually at the end of what he feels may some day, if he ever gets to it to put a subdivision, there's no plan, you know, he may have plans, I don't really know. We approached him we didn't want any problems with the landowner. We asked him if everything was okay. We didn't want to have any futuristic things here or there so we told him what we were doing.

MR. PETRO: How big is the substation, the building itself, 20 X 30?

MS. ROSENBERG: They are like 12 X 26.

MR. PETRO: That is the building itself.

MS. ROSENBERG: 11'3" X 26, that is one story pre-fabricated building dropped onto a slab, it comes with the equipment inside, very sensitive, very expensive equipment that comes in inside and it's silently monitored, secured monitored, the site, you see a chain link fence surrounding it just the tower and the equipment shed, the chain link fence we're asking for eight feet of which the top foot will be 3 strands of barbed wire. As I said, it's silently secured to an off-site always manned station.

MR. PETRO: Services it would have would be the electric that is going to be needed?

MS. ROSENBERG: And telephone.

MR. LUCAS: Also concrete pad for generator. What's going to fuel the generator?

MS. ROSENBERG: Diesel.

MR. LUCAS: Storage tank on site too?

MR. ROSS: Tanks on these I believe are up on top of them.

MR. LUCAS: Like a one unit piece thing?

MR. ROSS: Yes.

MR. PETRO: You have a tower that is to be constructed on this site, what's the height of the tower?

MS. ROSENBERG: 160 feet.

MR. PETRO: Mark, my question to you would be 160 hundred foot, obviously might be close to property line if you go to the normal procedure that you could do, would they need a variance for the height?

MR. EDSALL: In this particular zone, any height restrictions aren't based on setback, they are purely based on the established 18 foot elevation so.

MS. ROSENBERG: Per building, we're not a building, we're a structure, that doesn't fit within the definition of the building and the Central Hudson towers are 60 feet high right next to us.

MR. BABCOCK: I think they do fit in the definition of a building.

MR. PETRO: We have had this before when we had tanks, they say they are not a building but obviously it's a structure, I just want to hear the building inspector out what he feels.

MS. ROSENBERG: I didn't know who that was.

MR. PETRO: New Windsor building inspector.

MS. ROSENBERG: What's your name, sir?

MR. PETRO: Mike Babcock.

MS. ROSENBERG: We spoke on the phone, I believe.

MR. PETRO: While you're looking that up--

MR. BABCOCK: It falls into radio and television receiving and transmitting towers, it's considered a building.

MS. ROSENBERG: Mr. Babcock, let's start with definition of essential service in the code in the definition section we fall--

MR. BABCOCK: Address Andy, look on page 4819, do you have your code?

MR. KRIEGER: No, I don't.

MR. BABCOCK: Then that is where we considered it before, I think, you know, discuss it with him and whatever you two can resolve.

MS. ROSENBERG: Mr. Krieger, if you can follow with me as soon as you finish looking at that start with essential services, the definition of that on page 4894, we're under New York Law Cellular One versus Rosenberg determined by the Court of Appeals, which is the highest court, for a public utility under your definition of essential services, we're equivalent of telephone public utility, and just as I believe Central Hudson Power, I'm sorry, gas and electric is a public utility, we fall within the same definition, same purview as Central Hudson. Mr. Babcock is looking at the definition of building which your town has a very unusual building definition. First of all, structure is everything, everything is a structure and all buildings are structures but not necessarily are structures buildings. Your definition of building includes fences, signs, wall, other than certain kind of retaining and radio and television receiving and transmitting towers and antennas. My contention is that those are non-public utility, radio and transmission towers and antennas, like radio station or telephone stations, this is a public utility essential service.

MR. PETRO: Being that you are a public utility, you're saying that you don't need to have--

MS. ROSENBERG: Just like Central Hudson, all I'm saying that height restriction of 18 feet for a building in that district we contend does not apply to us because that would be if you'd consider that it applied to us you'd be saying that Central Hudson can

have 160 foot high freestanding or connected transmission line tower without any height restrictions but a telephone communication facility on a single freestanding tower has a building restriction of 18 feet and that is just incongruous. You can't mean that.

MR. PETRO: Want to explain it or would you like time to address it?

MR. KRIEGER: Yes and no. A couple things I wanted to say now with respect to status of NYNEX as a public utility, I don't think there is now, there can be any argument about the fact that they are a public utility, that has been established. What troubles me more is whether we're not, even as a public utility they are entitled to automatic exemption from the code with respect to height. I know that they are entitled to different treatment when they make, if they have to make application from the zoning board, there are different, very different rules that apply. Whether or not they are entitled to automatic exemption that is the one point that troubles me.

MS. ROSENBERG: I'm not suggesting that we're, I'm saying I'm trying to apply your code to your facility. And I'm saying that your code says that we're an essential service, start with that. Secondly, your code does not have any height restrictions on transmission lines and we're a telephone facility, same thing as the transmission lines and all I'm saying is it would be a very strange and I don't know if it's a portable distinction between a Central Hudson tower or transmission line that can be for the height under your code because it's a structure and not a building whereas we're a building because we're a telephone facility. I'm saying we're not a, we're not a building under your definition of building under this section of radio and television receiving and transmitting towers cause that is not intended a public utility communication facilities, that is something else entirely.

MR. PETRO: That is what I wanted to clear up. Your just exemption, because you may happen to be a utility

because if that were the case, if you came in here with a 14 story skyscraper.

MS. ROSENBERG: Not saying that.

MR. PETRO: Because it's a tower.

MS. ROSENBERG: The only question is are we a building because of your unusual definition of building, your definition includes radio and television receiving and transmitting and towers and antennas, I'm saying we're not within your definition of building under that scenario because we're a public utility communications facility, just like Central Hudson is a public utility transmission line facility and we're not a private for profit facility which I think this particular provision was intended to reach.

MR. PETRO: Mark, let me ask you just while he's looking, do you have any input? I won't belabor this now because it's very important if we don't come to a decision, we need to send you to the zoning board for a variance or we should continue. That is why I want to get down to it now.

MR. EDSALL: It appears that there is some need for interpretation or at least some attempts being made to interpret what was intended or what the code says. And I would think that if an interpretation has to be made, the code is clear who makes the interpretation. I don't think it's myself. I don't think it's the board. I think it's the zoning board. Maybe there's some information that appears to be unclear to the applicant or different sections that appear to be inconsistent, that is their opinion. I think it's something the ZBA, if there is a dispute, the Zoning Board has to make that decision.

MR. KRIEGER: I would, first of all, I would agree with Mark and I would say this. I would advise the board at this point to continue at least preliminary review. Refer the application to the zoning board. I anticipate I'll be in contact with the applicant with Mrs. Rosenberg and we can sort this out. If it turns out that that is unnecessary, they can simply come

back. If it turns out that it is necessary, they are already on their way.

MR. PETRO: Mr. Krieger is also the zoning board attorney so it's--

MS. ROSENBERG: I'll leave my card.

MR. LUCAS: We can continue with the preliminary.

MR. PETRO: We can but we'd have to make a referral tonight. We'll take a motion to approve and the normal procedure but we can continue looking at it and do that later on.

MS. ROSENBERG: You can also I might ask that you do a designation as lead agency and perhaps designate unlisted, you can do that tonight.

MR. DUBALDI: I don't know if we can.

MR. PETRO: I think that we might be able to take lead agency. I don't want to go any further with that until we send it to the zoning board and obviously no other SEQRA process and if there is going to be a public hearing, I'd like to have all that done. Also obviously, you'd have to have a public hearing at zoning board.

MR. KRIEGER: If the application, I'm not entirely sure at this point, because of its peculiar nature, I can't say at this point that as I can with most of the applications that it will surely go to the zoning board and they'll have to have a public hearing and so forth.

MR. PETRO: You want to read more about it and understand it? You're suggestion is well taken. I don't think they have an objection. We'll review it further, we'll take a motion later and what we're going to do is obviously we'll take a roll call and once we deny you and you're sent to the zoning board, during that time when you get set up at the zoning board, Mr. Krieger will do his research.

MS. ROSENBERG: I thought Mr. Krieger was suggesting

that you not deny, that you just continue it.

MR. PETRO: It's a matter of procedure.

MR. KRIEGER: The way they do it here procedurally if it appears that it has to go to the zoning board then, they deny it solely for the purpose, it's not denying the application ultimately but for the purpose of providing a mechanism so it can go to the zoning board, if that is not necessary then it can come back, it's not a denial in the sense that it ends the application.

MR. PETRO: If there's something really wrong or of course it would be, probably won't be heard in the first place, kind of saves a step. Gentlemen of the board, any other comments as far as the layout? There's not going to be any people working there.

MR. LUCAS: I mean I don't see it on here but just a few things, if we can locate utilities coming into it, a little bit more explanation about the, or if it requires anything with fuel on it as far as like a deck.

MS. ROSENBERG: It's got all that.

MR. LUCAS: Whatever you can do that would help.

MS. ROSENBERG: You want no see it on a sheet of plans, is that what you're saying?

MR. STENT: We'd like to have that, show the existing poles and lines.

MR. BABCOCK: Yes.

MR. LUCAS: I'm talking about utilities to feed this, the power to feed the underground service coming in.

MR. BABCOCK: Also the tanks, the size of the tanks, if it's got the containment or not.

MR. LARRY WOODS: We can provide a catalogue cut sheet.

MR. LUCAS: That would be fine for me. It's a

self-containing unit?

MR. WOODS: Rather than put it on the plan, we can give you catalogue cut sheets.

MR. LUCAS: We want to go along as quick as we can.

MR. WOODS: Larry Woods with Gulf Harbor Associates representing the applicant.

MR. PETRO: The chain link fence, the height of it around the property here, you may need a variance for the eight feet. Do you count the barbed wire and the second part of the question is there any problems with the barbed wire around the top of this? Do we have any codes against this?

MR. BABCOCK: I don't believe we do, Jimmy, I think it's a matter of this board understanding that they are doing that for security purposes, I'm sure.

MR. LUCAS: Alarm system here?

MS. ROSENBERG: Yes.

MR. PETRO: Mike, I know the eight feet needs the variance, six feet doesn't, being the chain link is only six, and the barbed might bring it up to that other two foot, is that the type of fence that it is?

MS. ROSENBERG: That is correct.

MR. BABCOCK: There's some other fence on here too, is that a stockade fence possibly?

MS. ROSENBERG: Chain link fence. What section of the code limits the fence to six feet?

MR. BABCOCK: It's 4814.

MR. ROSS: One of the things about these, there's really nothing to burn and we tell fire departments if there ever was a fire at the facility, to just let it burn. There's really nothing, it's got, on most of them they've got their own fire suppression system

within the item, there's nothing really to burn within the compound. The building is fire rated for certain amount of time. There's really not enough space, you know to--

MR. PETRO: You can get into that with the building inspector. Let me ask you this, cause I'm somewhat ignorant when it comes to emissions and stuff that might come off the tower, maybe electric lines having radios that make toasters go up in people's houses and will this make somebody's hair go gray, tell me what exactly kind of emissions emit from this tower and what does it really do?

MR. ROSS: They are absolutely safe. We don't broadcast at anything more than a hundred watts which is similar to this light bulb up here. It's actually it's FM radio, it's the top band of the spectrum that used to belong to UHFCT that the FCC decided wasn't being used anymore, some of the higher channels. We have got health and safety study report application, I believe that is done by AT&T, Bell Labs.

MR. PETRO: Are you monitored by any outside agency?

MS. ROSENBERG: FCC, FCC regulates this part of the industry and indeed the new Tele Communications act that is preempted, here's a report that was done by Lucent Technologist, Inc. which used to be AT&T Bell Labs that analyzed the worst possible case, anything we can use that the conclusions by every standard were at least 1,075 times below the exposure limits of OSHA, Occupational Safety Health and so forth, ANSI which is a national standard group, IENCRP and lists all of the stats on the exposure and you're welcome to have that.

MR. PETRO: Can we keep this in the files?

MS. ROSENBERG: Absolutely.

MR. BABCOCK: Jim, to answer your question on the fence it says that fences in excess of 6 foot are considered buildings.

MS. ROSENBERG: Then it says building height is 18 feet

so we don't need to get a variance then.

MR. BABCOCK: But your setbacks would be a hundred feet off any property line, you know, it says, which I'm not sure, I don't see anything on the plan that shows how far from a property line you are.

MS. ROSENBERG: Doesn't show the property line? Here's the facility and the property line, as you can see on the site, do you have that drawing?

MR. PETRO: Can you show us on the plans the setbacks from the property lines the next time you appear so I know approximately where the building sits?

MR. BERNIE GULF: I believe in the, Bernie Gulf, Gulf Harbor Associates.

MS. ROSENBERG: Setbacks, Bernie?

MR. GULF: Front setback is 923 feet, the side yard is 132 and 181 and the other, the rear is 191.

MR. PETRO: That suffices for me and it's in the bulk table, Mike, they are pretty far into the site?

MR. BABCOCK: Jim, that is the entire parcel, the 27.

MS. ROSENBERG: This is not a subdivided parcel.

MR. BABCOCK: Well, I guess Andy can answer that one too, you know, they are using the 25 acre entire piece to obtain their hundred foot setbacks.

MR. PETRO: If there is no problem, why wouldn't that be okay?

MR. KRIEGER: If they want to use ten percent of their property, that is their property, they can do as they please.

MR. BABCOCK: That is fine.

MR. PETRO: I think the fence part of it, Mike, is basically the six foot and the wire on the top so I

don't know if we have, you have a problem with that, the building department.

MR. BABCOCK: Nope.

MR. KRIEGER: I think that you make a point they should be aware of the fact if they are going to locate it in the middle of a large parcel, which is, which as I said is fine, but they should be aware in the event that they seek to develop the parcel otherwise, in the future, that it may have an adverse impact here if you are looking at the fence and saying it's so far back from the property line, it doesn't matter if you change that, that may create a problem that does not now exist. I'm sure that--

MS. ROSENBERG: So long as it doesn't exist for us, that is fine.

MR. KRIEGER: I'm sure the residents of the area would be perfectly happy to have it located in the middle of a large parcel.

MR. PETRO: What he is stating if there is a subdivision later on, there's a property line that is close, it won't affect this if you are already done, it's not going to affect it, but if you come back in and say I want to make the fence bigger, it's going to be a different story, if the property line is 30 feet away, so you can't say well, we did it before. I think we have unless anyone else has anything that we can do lead agency.

MR. KRIEGER: If we do, the problem is procedural. If you do lead agency and then you deny the petition, you can't take lead agency on something that isn't in front of you. It's sort a cart before the horse.

MS. ROSENBERG: May I ask you this question? Even if you determine after discussion we have to go to the zoning board, we still have to come back for a special use permit to you and site plan approval?

MR. PETRO: Correct.

MS. ROSENBERG: So if you don't deny it and you just continue on those issues, why wouldn't that be okay to you?

MR. KRIEGER: Procedurally in order to, the only way that the matter can be considered by the zoning board is it has to be first referred by the planning board and there can't be a planning board application at the same time pending, it's got to be one or the other. So the way procedurally to get around that is to simply deny this, send it to the zoning board then when it comes back again, you have got a new in essence a new application without having to go through the reapplication process. And everything starts again. One of the problems is that with the timeframe under SEQRA, if you take, if this board were to take lead agency, then it would have to act within 20 days and it has no control over what happens when it goes to the zoning board than those 20 days may elapse without this board having an opportunity to take action which puts the entire, makes the entire thing problematic. In all candor, with this particular application, it appears to be very unlikely anybody's inclined to object. However, if you have somebody come in on another application, similar problem happens, not infrequently somebody has to be referred to the zoning board, if this board were to set a precedent of taking lead agency while it won't, it's unlikely to come back in, this application, it's likely to come back at a time when it really matters. And having SEQRA time expire some applications can be a problem.

MR. PETRO: I think we got that Andy, thank you, very good. Mike, Mark, one other thing before we move on, I had said and it was my opinion, I didn't poll the rest of the board, I felt that the bulk table reflected the setbacks well enough for us to continue on, I see on one of your comments you felt that it should be on the map. Do you still feel that way and want to expand on that?

MS. ROSENBERG: It is on the map.

MR. PETRO: On the plans, the actual setbacks to the building, it's only in the bulk tables.

MR. EDSALL: If I could answer?

MR. PETRO: Sure.

MR. EDSALL: Sure. One of my comments was that we have no metes and bounds on the plan and that was a little bit of a concern to me and I want the board to make a decision if they wanted to waive the requirement to reflect those boundaries. And secondly, although we understand that the bulk table shows the dimensions from the line, it would be beneficial to have metes and bounds and have the surveyor tell us where he's measuring so we understand where he is measuring and what the setback is. Obviously, if we're to believe that the boundary is shown correctly and scale it which I think is a very bad practice in this profession sure, they meet the bulk requirements, but I'd like to have a surveyor with a seal on the plans tell me that that is an accurate depiction of the boundary and tell us that the accurate number setback is a certain amount.

MS. ROSENBERG: But again, if the board cares to waive the requirement for metes and bounds survey or something to that sort, fine.

MR. PETRO: Why would we waive it for this application and not for others, what's the difference?

MS. ROSENBERG: We have asked them to relieve us from that obligation now this is an enormously expensive survey and we were hoping that we could wait for the actual metes and bounds cause we're well within the parcel and this is by deed, help me out, Bernie, how do we show where the parcel is?

MR. GULF: There's notes on sheet C2 in the lower left corner there it was done and it was plotted from a deed, I believe we discussed that.

MR. EDSALL: This is not something we haven't discussed. The catch 22 we're in here, we're looking at the information that we can rely upon and have it presented on the basis of a licensed professional presenting it. Unfortunately, licensed professional

doesn't feel comfortable certifying to dimensions on a deed plot so it is a catch 22. I think the answer might be is to not require it now but before the application comes to a close, we should at least locate the critical boundaries, I don't see any benefit in having a survey of the property lines that are not what we're concerned about.

MR. PETRO: Doesn't relate to the project.

MR. EDSALL: But the two property lines that parallel or are closest, let's say, to the lease parcel, it would be a benefit to locate those.

MS. ROSENBERG: We would appreciate your doing that, let us postpone it until the later in the application.

MR. PETRO: I don't think the board has a problem with that.

MR. EDSALL: Obviously, the only caution is if there is any gross error where a deed plot is not accurate, it may be a situation where they find they may need a variance they may require given the size of the parcel.

MR. PETRO: Okay, at this time, I think what we're going to do is accept a motion, I just want to say one more thing to Mrs. Rosenberg. We're going to send you, you're going to be sent on to the zoning board, obviously to possibly get variances that you may need for height variance for the tower, I think that might be the only thing we're seeking at this time.

MR. KRIEGER: Since the fence is ruled out.

MR. PETRO: Okay, if you go through your procedure there, they may have a public hearing there, if you do come back to this board, I would like to see more information on the, and I do appreciate what you have given me, some more information on any radiation or any waves that are coming out of the tower. I know you showed me the paper, maybe a little presentation, especially if we have a public hearing, I think it would be very beneficial to myself and maybe any people that would be interested.

MR. KRIEGER: Satisfy SEQRA as well.

MR. PETRO: Just prepare a little something on that.

MR. EDSALL: Jim, as follow up to Mike's comment, I think I'm familiar with some of the storage systems for the generators but it might be worthwhile that you have to have that available for SEQRA because you have a public water storage with the reservoir so that will be on record, they can make that part of the record indicate if there is secondary storage, if there is not.

MR. LUCAS: What about the underground utilities, do you want to show anything about that?

MR. EDSALL: I think--

MR. BABCOCK: How is it getting there?

MR. EDSALL: That would be beneficial to have it on the plans but I think from an environmental standpoint of potential effects, the issue Jim brought up and the storage of petroleum products near a public reservoir for municipal water those two are obviously things we want to get on record for the SEQRA process, the rest of the things are just site plan information.

MR. KRIEGER: I think it's as well as informative to the planning board, it's in the applicant's interest because the public hearing forms the function of being a hearing for those interested and if it is unknown to anybody at this point whether there is, whether there are persons or persons who might take a deep interest.

MS. ROSENBERG: We'd be happy to make a full presentation.

MR. PETRO: I'd entertain a motion to approve the O C Poughkeepsie MSA Limited Partnership facility.

MR. DUBALDI: So moved.

MR. STENT: Second it.

MR. PETRO: Is there any discussion from the board members? If not, roll call.

ROLL CALL

MR. DUBALDI NO
MR. STENT NO
MR. LUCAS NO
MR. PETRO NO

MR. PETRO: At this time, you have been asked to go to the Zoning Board of Appeals in the Town of New Windsor to seek the necessary variances you may need to go further with this application. As of the time you receive them and they are put on the map, you can make the application back to this board.

MS. ROSENBERG: Now, Mr. Krieger and I are going to have a conversation. By any chance he should conclude that I was correct in my interpretation, then I have to start all over again?

MR. PETRO: No, you cut me off really before I ended. In this particular application, Mr. Krieger is going to review your presentation and he is going to review the code of new Windsor to find out whether or not simply that if this tower is a structure or it's not or a building and if it really does need to have a variance supplied to it, if he finds that it is not and you may be just come back to this board and be put on the next agenda whenever you're ready and we'll proceed at that level for the planning board at the planning board.

MS. ROSENBERG: Thank you.

MR. KRIEGER: Your phone number, unless your office is actually in--where is your office?

MS. ROSENBERG: Washington.

MR. KRIEGER: I can get you there?

MS. ROSENBERG: We have an Albany number, if you prefer to call me there, they'll patch it down to me.

MR. KRIEGER: Okay.

MS. ROSENBERG: I have a number to give you.

MR. KRIEGER: Second thing is for zoning board purposes, again to move this along as fast as we can, I suggest that you call Mrs. Barnhart.

MS. ROSENBERG: Spell it.

MR. KRIEGER: B-A-R-N-H-A-R-D-T during normal business hours, she's the zoning boards secretary and she can get you on, it's to the applicant's interest that she be able to get you on for a preliminary as soon as possible. It is their general function to have preliminary before the public simply to determine what's going on so that if you just have a public hearing before anything else and it comes as a surprise to the members of the board, sometimes it's counterproductive.

MR. BABCOCK: Just one thing I'd like to say is that she should wait until she's received the denial from us because we don't get that done until we give it to Pat. If you call her, she won't even know what you're talking about so until we send her the paperwork and you'll get a copy of that then you can contact her.

MR. PETRO: We're not going to send her the paperwork until Mr. Krieger comes up with a determination.

MR. BABCOCK: No, we'll send it.

MR. KRIEGER: Because in the meantime, Mrs. Rosenberg and I can discuss the matters and exchange information and so forth but there's, I see no particular reason to hold up the applicant while we transfer information back and forth.

MR. PETRO: Do you have a timeframe?

MS. ROSENBERG: We wanted to begin construction no later than the fall and it's going to take some time to do that because it's nice and dry.

MS. ROSENBERG: We really can't do anything quickly, all right, and it takes a long time to build these things and this is not the best access for us and we would just like to get it underway as soon as possible during the busy season so we can schedule it.

MR. PETRO: Our procedures move rapidly, we don't deliberately hold anybody up so as long as sometimes instead of, I don't mean this in a mean way, but trying to find a loophole sometimes it's just easier to do it.

MR. KRIEGER: Faster to walk the walk rather than look for a short cut. We can talk in terms of the procedures.

MR. PETRO: Thank you.

RAF 1/8/96.
ZBA

State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

Part 1 - PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT/SPONSOR: Orange County Poughkeepsie MSA Limited Partnership	2. PROJECT NAME: Public Utility Communications Facility
3. PROJECT LOCATION: Municipality Town of New Windsor County Orange County	
4. PRECISE LOCATION: (Street address and road intersections, prominent landmarks, etc., or provide map) North side of Dean Hill Road, Tax Map Parcel 65-1-17, near existing Telephone Company R.O.W.	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Construction of a public utility communications facility consisting of a 160' high freestanding tower, equipment shelter, and generator pad enclosed within a chain link fence.	
7. AMOUNT OF LAND AFFECTED: Initially 0.23 acres Ultimately 0.23 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly Special Permit from Planning Board, and Variance from ZBA required	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agricultural <input type="checkbox"/> Park/Forest/Open space <input checked="" type="checkbox"/> Other Describe: Public utility, reservoir, open space residential	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) name and permit/approvals Town Planning Board Special Permit, ZBA Variance FAA: Form 7460	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) name and permit/approval FCC License	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No FCC license will be amended when facility is constructed and placed on line.	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/Sponsor Name: Anthony P. Stellato, Jr., P.E./Representing Orange County Date: April 24, 1996 Poughkeepsie MSA Limited Partnership	
Signature: 	

If the action is in a Coastal Area, and you are a state agency, complete a Coastal Assessment Form before proceeding with this assessment

PART II-ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE 1 THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF. Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible.)

- C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:**
No, project involves the disturbance of a small area for the construction of a communications tower, equipment shelter, and related site improvements. Impacts, if any, are primarily confined to the construction phase.
- C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:**
The communications facility will be located in a wooded area near existing public utility structures. No significant impacts on these resources or the character area is anticipated. The applicant will provide a visual resource evaluation that documents that the view of the tower will not have a significant impact on the community.
- C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:**
No existing habitats or endangered species are known to exist within the project limits.
- C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:**
None, the communications facility proposed is consistent with the Town of New Windsor Zoning Code.
- C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:**
None, spin-off development is not anticipated from this action.
- C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:**
None identified.
- C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:**
No adverse impacts is anticipated. Only a minor increase in electricity use is anticipated. Electricity demand will be equivalent to that of a single family residence.

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
Yes No If Yes, explain briefly:

Part III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide on attachments as necessary, the reasons supporting this determination:

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible Officer)

Date 6/26/96, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr DR.
New Windsor Ny 12553

DATE		CLAIMED	ALLOWED
<u>6/26/96</u>	Zoning Board Meeting	75 00	
	Misc - 2		
	Bila - 2		
	Hortogamer - 18 81.00		
	Badich - 3		
	Tepper - 4		
	Schultz - 3	144 00	
	<u>32</u>	<u>144 00</u>	
		219 00	

KARTIGANER/O.C. POUGHKEEPSIE MSA

MR. NUGENT: Referred by the Planning Board for 100 ft. frontage and 142 ft. maximum building height variance and/or interpretation for construction of a public utility communications facility with transmission tower off Dean Hill Road in an R-2 zone.

Ruth B. Rosenberg, Esq. and Joseph E. Ross appeared before the board for this proposal.

MS. ROSENBERG: My name is Ruth Rosenberg, I'm an attorney for Celco Partnership, here's my card, I gave one to your stenographer. Here are some revised plans for you to look at while I'm sort of describing the project. This is an application by Celco Partnership, the Bell Atlantic NYNEX Mobile Inc. is the managing partner of this partnership for a public utility facility off Dean Hill Road on the Kartiganer property. The access to this proposed 160 foot tower with an equipment shelter is from Benson Hill Road along an existing NYNEX road that is that has been there. You'll see on your sheet C2, there's a narrow road that goes all the way up to the site and at a certain location there is a jog in that road. There's an existing road that goes straight back, the jog is a reflection of the request of Hudson Valley Development Corporation to relocate that portion of the road to permit them to develop sometime in the future the subdivision which they propose to put there so the jog is at the request of the developer. The rest is along an existing public utility road that has been there for I think over 35 years or so. You're I'm sure aware of the fact that the court of the appeals has determined that cellular telephone is a public utility under law, New York law for land use purposes, so what we have is a use that is permitted with a special use permit and site plan approval by your planning board. But what we're here for is because our tower is 160 feet tall, your zoning ordinance says that all structures, all buildings, excuse me, buildings, the maximum height is 18 feet. Now, your zoning ordinance has a very unusual definition of building. It includes things like towers, specifically it includes things that are other than what's normally thought of as a building, that is

something with a roof on it, so since our proposed structure is a building under zoning ordinances and since your building height is maximum height is 18 feet, then obviously we need a variance for height.

(Whereupon, Mr. Krieger entered the room.)

MS. ROSENBERG: Also, Mr. Edsall and the planning board has said we need a variance for frontage. This parcel, this Kartiganer parcel has no frontage. It's a landlocked parcel and has been for many, many years. Under New York law, landlocked parcel, excuse me, I don't know that it is a landlocked parcel, it may have an accessway down at the other end of the parcel to a street so whether it's landlocked, I'm not sure, but it has no frontage on Benson Hill Road, it has only this utility road that goes up to the site. So under New York State law, Section 288 of the Town Law, we can apply to the zoning board for a variance where we cannot have frontage on a public street, the variance, the presumption that a width of I think it's 15 feet under 280A is sufficient to give access to emergency vehicles and so forth and what they are concerned about your zoning ordinance has frontage of a hundred feet and so clearly, if this applies to a landlocked parcel, we need a variance for the whole hundred feet although under New York Law, one can, the zoning board can certainly look favorably on an easement of access which we do have that is 25 feet wide. So those are the two reasons why we're before you if you will put us on your schedule.

MR. NUGENT: Okay, I have a question right off the top of my head. Is that 12 foot or whatever that road is goes all the way back?

MS. ROSENBERG: Yes.

MR. NUGENT: Do you own that property?

MS. ROSENBERG: No.

MR. NUGENT: You just have an easement through that property?

MS. ROSENBERG: There's an old public utility easement that goes back here because there was an old telephone line telephone line that ran, here's Central Hudson Gas and Electric, the telephone line ran across it right about--Joe, could you come up and point it out?

MR. KANE: That is the existing telephone company right-of-way.

MS. ROSENBERG: That is the access.

MR. ROSS: The telephone company right-of-way was a hundred feet wide, okay.

MR. NUGENT: That is this piece right here.

MR. ROSS: Right, that was approximately a hundred feet wide.

MS. ROSENBERG: That is these two dotted lines here, Joe?

MR. ROSS: Yes.

MS. ROSENBERG: And the roadway which gave access all the way back here ends at the Central Hudson transmission line.

MR. ROSS: Doesn't end, actually the right-of-way goes all the way up to Albany, New York. The road, the road will keep going to the other side which is Riley Road ultimately end up, crosses Riley Road, kind of got messed up when the aqueducts went in some time ago, but there's an access road and there's some way over there on Riley Road that I think he may or may not, I'm not sure about this particular parcel that we have here, he's got other parcels that abut to this that go to Riley Road. But the access won't help us there because it goes over the aqueduct.

MR. NUGENT: What I was getting at or trying to get at was that you don't actually own this or he doesn't actually own this.

MR. ROSS: We don't need, we have a right-of-way from

the owners.

MR. NUGENT: Even if the road is 4 foot wide road, what I am trying to do is reduce the size of the variance required.

MR. ROSS: No, we don't own it, we don't own any of this property.

MR. NUGENT: Well you're in contract for it or whatever.

MS. ROSENBERG: To lease a portion of it. This is an easement, this is an easement, a very old easement from a hundred foot wide right-of-way. We have a new easement running to Celco from this developer that begins here and it goes up to the edge of their property to the Kartiganer property which is right here. They estimate, they asked us to make this jog which we agreed to do for their future development possibilities and we continue along the road. We also not only have an easement from them, we have an easement for the Kartiganers to continue along this existing road which is also an old telephone company road to the lease site. So under Section 280A of the Town Law where this zoning board can give relief based upon a minimum access of easement or whatever other permanent right-of-way, at least 15 feet width, we have a 25 foot wide easement so we can comply with Section 280A. Your zoning ordinance says street frontage of a hundred feet, we have no street frontage.

MR. NUGENT: That is why you're going for the whole hundred feet?

MS. ROSENBERG: I guess that is what you concluded.

MR. LANGANKE: Would you like to show me what you're talking about?

MS. ROSENBERG: Oh, sure, I'm sorry.

MR. LANGANKE: It's a hundred feet, I didn't understand.

MR. ROSS: If we have a hundred foot right-of-way over the property, we, first of all, we went to the owner and said we didn't want to have any problems with the owners so we said to them listen, this is what we're doing here, even though we have an existing right-of-way in there, we don't want to get into surveying exactly where it is and everything like that and you know trying to, we're trying to work with the owner cause we're going to tell him and he may have some plans futuristically, he says gee, could you just make this little bend, might make it easier if I ever develop it, can you do this and we said sure, fine, as long as you give us an easement right from the road all the way up and then everybody will be okay.

MR. LANGANKE: But he gave you a 25 foot easement?

MS. ROSENBERG: Yes.

MR. LANGANKE: But you have a hundred foot but through this particular area you really only have 25 foot now.

MS. ROSENBERG: Well, this is an old easement area, this is a hundred feet, it's still an easement, it's not frontage, it's an easement of frontage, it isn't ownership of frontage.

MR. LANGANKE: But if we need a hundred feet, if you have a hundred feet, whether it's an easement or frontage, maybe we can--

MS. ROSENBERG: Well, we have already agreed with the owner to relinquish any claim against the balance of this property so that he could develop it.

MR. LANGANKE: So you can still use the hundred foot if you ever had to. Did you relinquish?

MS. ROSENBERG: We have agreed to relinquish our claim to it.

MR. NUGENT: An easement is not considered frontage anyway.

MR. LANGANKE: I'm just looking for, you know, down the

line.

MR. NUGENT: I'm trying to do the same thing.

MR. LANGANKE: And this area you own it, you only have 25 foot, you own the hundred foot of easement?

MR. ROSS: We don't have any frontage.

MR. LANGANKE: I said easement

MR. KRIEGER: I do have a couple of questions. The existing roadway, how is it improved, is it improved?

MS. ROSENBERG: It's not, no, it's a rough road.

MR. KRIEGER: Rough meaning?

MR. ROSS: It's a dirt road, four wheel drive.

MR. KRIEGER: Have you inquired of or made attempts of any of the other neighbors to acquire anymore property?

MS. ROSENBERG: We don't need anymore property, we're just leasing the space that we need, we're very small space, space that we're taking up.

MR. KRIEGER: So the answer is no?

MS. ROSENBERG: Right. We're not buying anything.

MR. KRIEGER: Now that I speak to you, I understand you don't own anything?

MS. ROSENBERG: Right.

MR. KRIEGER: Now, you said and I think I heard you say this, you were making or had made an agreement with the owner I assume that means Kartiganer with respect to relinquishing something. Had you made any agreement with respect to what happens if the, if subsequently when they develop it, they are unable to sell the lots on account of objections to the transmissions or anything else?

MS. ROSENBERG: They don't see any problem, there's no evidence in any of your, that there's ever a problem with that, we'll present at the zoning hearing an impact statement, an evaluation of whether it will have an effect on future development. We believe it will not. That has been evidenced over the years. But the agreement that we have is not with the Kartiganers, it's with this Hudson Valley Development Corporation group, the ones from the Benson Hill Road.

MR. LANGANKE: Dean Hill Road.

MS. ROSENBERG: Dean Hill Road up to the Kartiganer property.

MR. NUGENT: How about Mr. and Mrs. Maurice, have you contacted them?

MS. ROSENBERG: No, we're all on this property but there property, all of the access is within the property of Hudson Valley Development Group or Kartiganer, they do adjoin it, but no, we haven't contacted them. For what purpose?

MR. NUGENT: You're going to send them a letter anyway.

MS. ROSENBERG: Yes.

MR. NUGENT: Is there any emissions from this tower?

MS. ROSENBERG: Any emissions, radio frequency emissions, yeah.

MR. KRIEGER: Just so the board is aware, this particular applicant will have to comply with the provisions of the State Environmental Quality Review Act, SEQRA.

MS. ROSENBERG: And we have very low output, I thought you meant like noise or smell or something and what we have--

MR. NUGENT: Like overhead transmission lines, that type.

MS. ROSENBERG: We have a study which we will present to the board that shows that we're well, well, well below any applicable standard by any of the ANSI Standards, the IEEE standards, any OSHA standards, any standards that have been promulgated in the U.S. and we're very competent that when the FCC issues its regulations and standards for these things, the Telecommunications Act within 1996 will well within our standards. State of New York Department of Health will review the study, if you request them to do so, and other sites with exactly the same kind of installation and have written back saying there is no problem here, this is well below any standard and I'll give you the name of the gentleman to write, the New York State Department of Health, Mr. Condon, and I'll get him your address. At your request, he will review the study we have and respond directly to you about his conclusions.

MR. NUGENT: That is not a bad idea.

MR. ROSS: It is preempted from local zoning, it is, as far as the ones that other communities that we have been in, it's preempted from any local zoning insofar as, as much as the health effects, but the government believes that it is so minimalistic (sic.) that it is not something--

MS. ROSENBERG: By the way, will you tell your name for the record?

MR. ROSS: My name is Joe Ross, I'm the real estate and zoning manager for Bell Atlantic and NYNEX representing the Orange County Poughkeepsie limited partnership, I'm the one who puts these together, these properties.

MR. KRIEGER: You said that just now that there was something from, I did not follow that, some authority to the effect that local zoning is preempted?

MR. ROSS: If you'd like, we can give you copies of the Telecommunications Act.

MR. KRIEGER: Well, it's--

MS. ROSENBERG: There's a section in the

Telecommunications Act, Section 706, I think, that says that the FCC can promulgate standards as to emissions from wireless facilities and when they do so, local communities will not be able to take this up as an issue. And that is in the Telecommunications Act, I may even have it in my folder, but we previous to that cause we have been working on the site for a while, we have a study made by what's know Lucent Industries, what used to be AT&T Bell Labs and if you take the study and take it to Mr. Condon, State of New York, he will write you back a letter to the chairman of the zoning board saying this is no problem, this is not a problem.

MR. NUGENT: Any information that you can get before us I think would be helpful at a public hearing.

MS. ROSENBERG: Okay, I'll call you, Mr. Krieger, give you his address and it has to come from--

MR. KRIEGER: You said we need a study?

MS. ROSENBERG: I'll give you that and you can send it to him and he will respond directly to the town.

MS. BARNHART: We need a proxy statement from Kartiganer.

MS. ROSENBERG: We have that. Do you want to bring it up?

MR. REIS: At this time, you have permission from the development group?

MS. ROSENBERG: We have an easement.

MR. REIS: You have the easement?

MS. ROSENBERG: We have it in hand. We have a new easement from the Hudson Valley Development Group for again the area which you already have a hundred foot easement for this road that comes from Dean Hill Road up to the Kartiganer property.

MR. REIS: Who is going to improve the road?

MS. ROSENBERG: To the extent it's improved, it's only going to be dirt road, only access to our facility.

MR. REIS: Not going to be improved anymore than it is now?

MS. ROSENBERG: We have to get access to it, it will be, this is not a manned facility, there's only people here to visit it once a month, if that. If everything is okay, there may be six or seven months that nobody will ever go there.

MR. KANE: So it's a four wheel drive dirt road.

MS. ROSENBERG: It's going to be improved quite substantially to build it so the items that we need to get up to there to construct it, we're going to need to improve it.

MR. REIS: Put some gravel.

MS. ROSENBERG: Culvert here or there.

MR. KRIEGER: Couple of things, number one, I'm sure the board will want me to look at the easements so I'll need to review--are they in place now?

MS. ROSENBERG: Yes. I have an easement that we haven't, until we get our approvals, I have the other easement to the Kartiganer's, which is pertinent to the lease agreement and I'll give you a copy of that.

MR. KRIEGER: Yeah, take out everything but the easement because I don't care about the other so I'm sure you'll redact it appropriately. Now you said the development, the people said that this wasn't a problem with the emissions?

MS. ROSENBERG: Right, they support it.

MR. KRIEGER: Did they give you anything in writing indicating that they support the application?

MS. ROSENBERG: Gave us an easement.

MR. KRIEGER: Other than the easement, anything other than the easement cause I'll look at the easement.

MS. ROSENBERG: No, they didn't but if you want me to get a letter from the attorney, I'll try to do that but obviously--

MR. KRIEGER: That certainly would be a typical area of concern on the part of the members of the board is how the neighbors think and how shall I say experience is taught that an applicant cannot always be 100 percent relied on to accurately portray the neighbor's feelings and I'm not saying that, not having anything to do with you, but the overall experience is that--

MR. ROSS: My overall experience is that no neighbors like any of these so we're not anticipating any of the support of any of the neighbors.

MS. ROSENBERG: But this particular developer has given us an easement.

MR. KRIEGER: I understand and certainly I'll look at the easement if they have any, I would assume then as I say, until I see it, you know, specifically I would assume that they would be certainly not be opposed but as I say anything in addition which you cannot get, you're not required to do that, but anything in addition you can get would be helpful because that is as I say a typical area of concern on the part of the board.

MS. ROSENBERG: As this facility is located now, we're not anywhere near any existing houses and I do not believe we'll be seen by any of other neighbors along Dean Hill Road.

MR. KRIEGER: I understand when you have a large tract of land such as the tracts of land that surround this facility, it's not unreasonable to anticipate that at some point in the future, the owners of those tracts are going to come in and seek to develop it.

MS. ROSENBERG: One of them is our landlord.

MR. KRIEGER: The board has to be mindful not only of the present existing thing but the--

MS. ROSENBERG: We'll present the hearing of the commission to evaluate the impact of this tower on development, residential development, we'll have that at the public hearing.

MR. ROSS: Just so you know, I cite these all over the State of New York and this particular facility is located on the verge of an aqueduct, high tension line and existing AT&T long line, it's a public utility facility in proximity of an area that has always been reserved for public utilities. It's not around any homes.

MR. KRIEGER: Cause you mentioned those, particularly interested with respect to the high tension line, one thing I think the, which does not appear on the map, I'm not indicating that it should necessarily, well, I mean the easement is there but the fact that there are in fact towers there.

MR. ROSS: Right, they are about 60 to 80 feet high, 60 feet high and so--

MR. KANE: Look on the last page for a perspective. Do you see a picture?

MS. ROSENBERG: Here's the existing towers and here's our proposed facility and here's the lines.

MR. REIS: What's the electric to this, is it coming off Dean Hill Road?

MS. ROSENBERG: Yes.

MR. ROSS: Dean Hill Road underground.

MR. REIS: And your traffic there is once a month?

MS. ROSENBERG: Right, it's not a manned cite, it's fenced with a security fence, the fence is alarmed to a manned site off-site, that is it, there's no water,

there's no bathroom, natural drainage, we clear only that portion that is absolutely necessary to put our facility in and it's a wooded area.

MR. REIS: What's the function of the tower?

MR. ROSS: Celular communications, wireless they call it now. It's wireless.

MR. REIS: Thank you.

MR. NUGENT: Any further questions by the board?

MR. KANE: Not at this time.

MR. NUGENT: I'll accept a motion.

MR. KANE: Mr. Chairman, I move we set up Kartiganer and Poughkeepsie MSA for a public hearing for the proposed variances.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. NUGENT	AYE

MS. ROSENBERG: When would you declare yourselves lead agency?

MR. KRIEGER: It's a step in the, necessary step in the SEQRA process, are there any other agencies from whom you have to seek approval?

MS. ROSENBERG: No, we have to go to the planning board for the special use permit, as you know, and site plan approval. We already have an FCC license.

MR. NUGENT: Wouldn't they take precedence over us as lead agency?

MS. ROSENBERG: We'd appreciate it if you could do that

tonight, if you are going to be the agency, since there's another agency involved, approval involved, I'm not sure at this point that this board can take lead agency without corresponding or having a recommendation from the planning board. When we were before the planning board, I asked them to take lead agency, they said no, they couldn't do that because we had to get relief from the zoning board.

MR. ROSS: We have nothing to do with them until you folks act so they cannot be the lead agency in this particular scenario.

MS. ROSENBERG: If you don't act favorably, we never get to them and as I recall the conversation when I asked that they do that, they said no, we can't do that.

MR. KRIEGER: Is the map handy?

MR. REIS: Are there any other sites that are under consideration?

MS. ROSENBERG: In the Town of New Windsor?

MR. REIS: Yes.

MS. ROSENBERG: No.

MR. REIS: No other alternative sites?

MS. ROSENBERG: No.

MR. LANGANKE: Sounds like it's a good site.

MR. ROSS: We think it is.

MR. REIS: What's the closest tower you have to this?

MR. ROSS: I do have, I have a site outside of Newburgh in the Town of Newburgh, they call it St. Mary's but I can't remember the name, I can't remember the real name of the road.

MS. ROSENBERG: How high is the tower?

MR. ROSS: I don't remember the name of the road.

MS. ROSENBERG: This is a relatively low tower but would be the same style.

MR. ROSS: That one, it's very similar to that then there's, you know, there's other people who have towers in the area. There's one on Cronomer Hill that is Celular One's tower, that is not one of others, it's the same kind of tower.

MR. REIS: Same height?

MR. ROSS: No, that is about 50 feet higher, I believe 50 or 60 feet taller.

MR. LANGANKE: Can all these towers be adjacent to each other?

MS. ROSENBERG: They can be next to one another.

MR. LANGANKE: So they should just buy a piece of county property and let you all stick your towers there.

MS. ROSENBERG: Depends on how the systems is developed. A cell site has to cover a certain range, an overlap slightly with the next cell site, if one telephone company goes this way and one telephone company goes this way, can't necessarily pick the same site where you can do that, that is wonderful to be able to do that but they don't necessarily all have the cell sites in the way that they can pick a similar location.

MR. LANGANKE: They'll need more than one but seems like somebody should be looking at that alternative or else you're going to have these towers all over the place.

MS. ROSENBERG: Telecommunications Act of 1996 does recommend and direct the federal lands to be available wherever possible and lots of states are doing that, lots of counties are doing that, to make that kind of

land available.

MR. ROSS: I think what you're asking ultimately ends up with some antitrust problems when competing organizations can allude together to develop infrastructures that are apparently the same.

MS. ROSENBERG: Whenever it's possible, it's done whenever possible.

MR. LANGANKE: Okay.

MR. KRIEGER: The problem declaring yourselves lead agency at this point is that SEQRA requires that you act within 20 days or you won't know whether you can have the hearing within 20 days.

MS. ROSENBERG: Within 20 days of the declaration of the lead agency or the completion of the public hearing.

MR. ROSS: I think you have to act on whether the action of whether it's a negative dec or positive declaration within a certain period, not after you declare yourselves lead agency but--

MR. KANE: After we have the public hearing.

MR. KRIEGER: After you have a public hearing but you have to hear all the facts before you can decide if you can declare.

MR. ROSS: Before, decide if it's a negative dec or not.

MR. NUGENT: You can tell we don't do many.

MS. ROSENBERG: There are boards that make a SEQRA determination before the public hearing, it's not a public hearing item.

MR. KRIEGER: I'm aware of the fact that it is done, it's not a practice that I think is very wise but--

MR. ROSS: If it doesn't fall into any of the

thresholds then it obviously is a negative dec, if it doesn't fall under the threshold.

MR. KRIEGER: Yeah, the purpose of the public hearing is that to make the board members aware one of the purposes is to make them aware of something they wouldn't otherwise be aware of, I mean give you an extreme example, there might be a wildlife sanctuary there but if the applicant didn't happen to mention it.

MS. ROSENBERG: I'm not saying that it is something that you have to do, I'm just saying that it is done in larger towns that I have been into have their own departments that do that.

MR. ROSS: Make that recommendation.

MS. ROSENBERG: That make the recommendation to the board. But that is not your system. They have their staff make a recommendation to the board and it's all there before we even get to the public hearing.

MR. KRIEGER: We don't have that facility available to us. With that understanding that no determination will be made or can be made until after the public hearing with respect to its environmental significance, I see no reason at this point why Mr. Chairman you can't entertain a motion to declare lead agency.

MR. KANE: Mr. Chairman, will you entertain a motion?

MR. NUGENT: Yes.

MR. KANE: I move that we declare ourselves, the zoning board, the lead agency in this issue.

MR. LANGANKE: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. NUGENT	AYE

June 24, 1996

21

MS. ROSENBERG: Your determination is that it be an unlisted action?

MR. KRIEGER: Well, we declared, it appears to be at this point, I don't want to, based on the information that has been submitted, all the board's done at this point is declare itself lead agency, hasn't made any determination as to the type of action. I don't think you can do that until after it has all the information, if the information proves out the same way it appears now, that is what it would be.

MS. ROSENBERG: Okay, thank you.

MR. KRIEGER: Between now and the public hearing, I'll look at 280A of the Town Law and advise the board.



**VIEW OF THE ORANGE COUNTY POUGHKEEPSIE MSA
LIMITED PARTNERSHIP LEASE PARCEL**



**VIEW ALONG THE EXISTING ACCESS DRIVE WITHIN
THE EXISTING TELEPHONE COMPANY R.O.W. AND
THE ORANGE COUNTY POUGHKEEPSIE MSA LIMITED
PARTNERSHIP ACCESS AND UTILITY EASEMENT**



**CLOUGH, HARBOUR
& ASSOCIATES LLP**
ENGINEERS, SURVEYORS, PLANNERS
& LANDSCAPE ARCHITECTS

III WINNERS CIRCLE - ALBANY, NEW YORK - 12205
P.O. BOX 5269 (518) 453 - 4500

SITE PHOTOGRAPHS

**PUBLIC UTILITY COMMUNICATIONS FACILITY
TOWN OF NEW WINDSOR
ORANGE COUNTY NEW YORK**

FIGURE NO.

NO SCALE



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(15)

May 9, 1996

Orange County Poukeepsie
MSA Limited Partnership
46 Broadway
Menands, NY 12204

RE: Tax Parcel: 65-1-17

Mr. Kartiganer:

According to our records, the attached list of property are within five hundred (500) feet of the above referenced property.

The charge for this service is \$35.00, minus your deposit of \$25.00. Please remit the balance of \$10.00 to the Town Clerk's Office.

Sincerely,

L. Cook /c.d.

LESLIE COOK
Sole Assessor

/cd
Attachment

cc: Pat Barnhart, ZBA

Central Hudson Gas & Electric Corp.
c/o Tax Agent South Road
Poughkeepsie, NY 12601

NY City Dept of EP
c/o City of New York Dep.
Bureau of water Supply-OWSL
suite 350
465 Columbus Ave
Valhalla, NY 10595

Village of Cornwall
c/o Distribution System of Cornwall on Hudson
PO Box 337
Cornwall, NY 12520

The Town of New Windsor
555 Union Ave.
New Windsor, NY 12553

Gamble, Robert & Patricia
RD2 Riley RD
New Windsor, NY 12553

Vitek, Victor M.
125 Lake Walton RD
Hopwell Junction, NY 12533

Tornetta, Paul & Phyllis
15 Laurel Hill Road
Crugers, NY 10521

Bergknoff, Irwin
RT 32
Highland Mills, NY 10930

Nemeth, Attila & Ruby
P.O. Box 81
Vails Gate, New York 12584

Hudson Valley Development
Group of New Windsor
7 Becker Farm Road
Roseland, NJ 07068

Maurice, Elaine P & Frank J
Dean Hill RD
Vails Gate, NY 12584

Kartiganer, Herbert L & Majority N
557 Bloominggrove Tpke.
New Windsor, NY 12553

← owner

Anderson, Herbert X
267 Riley RD
New Windsor, NY 12553

Longcore, Williams & X
Maciel Chrisine
258 Riley RD
New Windsor, NY 12553

Newburgh Water Supply X
City Hall
Newburgh, NY 12550

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----x
In the Matter of Application for Variance of

Kardigney/O.C. Loughkeepsie MSA Ltd. Partnership

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#96-34

-----x
STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On June 26, 1996, I compared the 15 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this 26th
June day of June, 1996.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1997

(TA DOCDISK#7-030586.AOS)



**CLOUGH, HARBOUR
& ASSOCIATES LLP**
ENGINEERS, SURVEYORS, PLANNERS
& LANDSCAPE ARCHITECTS

*Rec'd.
MA office
6/26/96.*

III WINNERS CIRCLE
P.O. BOX 5269, ALBANY, NEW YORK 12205-0269
TEL: 518-453-4500 • FAX: 518-458-1735

June 25, 1996

Patricia A. Barnhart, Secretary
Town of New Windsor
Zoning Board of Appeals
Town Hall - 555 Union Avenue
New Windsor, NY 12553

**RE: ORANGE COUNTY POUGHKEEPSIE MSA LIMITED PARTNERSHIP
VARIANCE APPLICATION
CHA FILE NO: 4734.01.29**

Dear Ms. Barnhart:

On behalf of Orange County Poughkeepsie MSA Limited Partnership, we are submitting an Application for Variance consisting of the following material:

- Three copies of the completed ZBA Variance Application Form,
- The Applicant's signed and notarized Proxy Affidavit,
- A Short Environmental Assessment Form,
- The Notice of Disapproval, as sent to Mr. Joe E. Ross,
- An exhibit showing adjacent owners,
- The Application fee in the amount of \$150.00,
- The Escrow fee in the amount of \$500.00,
- Copies of the deed and title report and site photographs,
- and the stamped and addressed envelopes for adjacent property owner notification.

It is our understanding that the submittal of this material will allow a public hearing concerning this project to be scheduled on July 8, 1996. Please do not hesitate to call if you have any questions regarding this submittal or require additional information.

Very truly yours,

CLOUGH, HARBOUR & ASSOCIATES LLP
ENGINEERS, SURVEYORS, PLANNERS
& LANDSCAPE ARCHITECTS

Bernard R Buff Jr.

Bernard R. Buff Jr., ASLA
Landscape Designer

PB-Let1/4734/01-29
cc: Ruth Rosenberg
Joe Ross



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PROXY AFFIDAVIT

SUBMISSION OF APPLICATION FOR VARIANCE # 96-34

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

FLORIDA
STATE OF ~~NEW YORK~~
PALM BEACH) SS.:
COUNTY OF ~~ORANGE~~

Herbert Kartiganer, deposes and says:
I am the OWNER of a certain parcel of land within the TOWN OF NEW WINDSOR designated as tax map SECTION 65 BLOCK 1 LOT 17. I HEREBY AUTHORIZE Mr. Joe E. Ross of Orange Co. Poughkeepsie MSA Ltd. Partnersh (company name) to make an application before the ZONING BOARD OF APPEALS as described in the within application.

Dated: 3 June 96

Herbert J. Kartiganer
(Signature of Owner)
Maymie Kartiganer

Sworn to before me this
3 day of June, 1996

[Signature]
Notary Public
Notary Public, State of Florida
Commission No. CC 41438
My Commission Expires 12/03/98
1-800-3-NOTARY - Fla. Notary Service & Bonding Co.

(ZBA DISK#1-060895.PXY)

This Instrument,

1970 1008

Made the 11th day of November, 1970, nineteen

Between FRANK PURDY, SR., residing at (no number) Moore's Mill Road, Town of New Windsor, Orange County, New York,

party of the first part, and

and MARJORIE N. KARTIGANER, his wife, both HERBERT L. KARTIGANER, residing at 557 Blooming Grove

Turnpike, Town of New Windsor, Orange County, New York,

parties of the second part:

Witnesseth, that the party of the first part, in consideration of TEN and 00/100 (\$10.00) Dollars, lawful money of the United States, and other good and valuable consideration paid by the parties of the second part, do as hereby grant and release unto the parties of the second part, their heirs and assigns forever,

All that tract or parcel of land situated in the Town of New Windsor, Orange County, New York, bounded and described as follows, to wit:

BEGINNING at a point in a stone wall in the northerly line of lands now or formerly of one Klamroth distant 212 and 4/10 feet on a course of south 83 degrees 06 minutes east from the northeasterly corner of lands conveyed by Margaret Recchioni to the City of Newburgh, and runs thence along the northerly line of lands of said Klamroth, being along a stone wall and extension of same, south 83 degrees 06 minutes east 1379 feet to a cross on a stone at the southerly end of a stone wall; thence along said last mentioned wall north 20 degrees 41 minutes west 380 and 4/10 feet to a cross on a stone in line of wall; thence still along said wall, north 20 degrees 58 minutes west 256 and 9/10 feet to a stone monument in said wall; thence still along said wall north 20 degrees 48 minutes west 452 and 4/10 feet to a stone monument in said wall; thence still along said wall north 19 degrees 53 minutes west 200 feet and 4/10 of a foot to a junction with another stone wall; thence along said last mentioned wall south 84 degrees 01 minutes east 434 and 3/10 feet to a wire fence in line of lands of the City of New York; thence along said wire fence, being along lands of the City of New York north 13 degrees 50 minutes west 575 and 2/10 feet; thence north 72 degrees 54 minutes west 40 and 2/10 feet; thence still along said wire fence and lands of the City of New York north 31 degrees 51 minutes west 252 and 7/10 feet; thence south 11 degrees 19 minutes west 405 and 2/10 feet; thence south 34 degrees 47 minutes west 1716 and 9/10 feet to the place of beginning. CONTAINING about 25 & 59/100 acres.

TOGETHER with the right of the party of the second part, its successors and assigns, to use for the purpose of ingress and egress to the property hereinabove described, a strip of land twelve (12) feet in width, extending from the highway leading from Vails Gate to Mount Airy School along the westerly line of lands of said Klamroth to lands formerly of Corcoran, now of the City of Newburgh; thence easterly along the lands of said Klamroth to the premises above described, but the right to use said strip shall be subordinate and subject to the right of the party of the first part thereto; the party of the second part, its successors and assigns, hereby agree and covenants with the party of the first part that it will from time to time and at all times hereafter, at its expense, repair in a substantial and workmanlike manner, any and all damage to said strip of land caused by party of the second part or by other persons using said strip of land without the consent or permission of the party of the second part.

Airy School along the westerly line of land formerly of Corcoran, now of the City of Newburgh; thence easterly along the lands of said Klamroth to the premises above described, but the right to use said strip shall be subordinate and subject to the right of the party of the first part thereto; the party of the second part, its successors and assigns, hereby agrees and covenants with the party of the first part that it will from time to time and at all times hereafter, at its expense, repair in a substantial and workmanlike manner, any and all damage to said strip of land caused by party of the second part or by other persons using said strip of land with the consent or permission of the party of the second part.

SAVE AND EXCEPTING the following rights which are hereby reserved to the party of the first part, its associated and allied companies, their respective successors, assigns, lessees and agents, its successors and assigns: An exclusive and perpetual right of way and easement to construct, reconstruct, operate, maintain and remove lines of telephone and telegraph, consisting of such poles, wires, cables, conduits, guys, anchors, loading pots and other fixtures and appurtenances as the party of the first part may from time to time, require, upon, across over and/or under a strip of land one hundred (100) feet wide, across the property hereinabove described, the center line of said one hundred (100) feet wide strip is indicated by the pole line of the party of the first part as now located and constructed across the aforesaid property; also the right to make use of the land adjacent to the said one hundred (100) feet wide strip, while constructing, reconstructing, maintaining or removing said lines and fixtures; the further right to cross and recross the property hereinabove described at all times hereafter with vehicles and equipment for the purpose of exercising the rights herein reserved and for reaching points on the right of way of the party of the first part, on neighboring lands; also the further right to cut and trim from time to time any trees and brush on said strip, and to permit the attachment of and/or carry in conduit wires and cables of any other company. This reservation shall not, however, prevent the grantee from constructing the necessary roads, walks, sewers and electric lines upon and under the said strip of land, provided that no road, walk, sewer, electric line or structure shall be erected or permitted on said strip of land without first obtaining the consent, in writing, of the grantor herein (BEING INTENDED TO MEAN AMERICAN TELEPHONE & TELEGRAPH Co.). X

BEING the same premises described in a deed from American Telephone & Telegraph Company to Veterans Memorial Grove Association of Orange County dated April 18, 1934 and recorded in the Orange County Clerk's Office on May 4, 1934 in Liber 747 of Deeds at page 504.

↑ ALSO, ALL that certain lot, piece or parcel of land bounded and described as follows:

BEGINNING at a point in a stone wall in the northerly line of lands conveyed by Michael Gillick to the City of Newburgh and runs thence along the northerly line of said lands south 82 degrees 56 minutes east 297.5 feet to lands of the City of New York; thence along lands of the City of New York south 31 degrees 51 minutes east 554.1 feet to lands conveyed by the City of Newburgh to the American Telephone and Telegraph Company; thence along lands of the American Telephone and Telegraph Company south 11 degrees 19 minutes west 405.2 feet; thence still along lands of the American Telephone and Telegraph Company south 34 degrees 47 minutes west 415.4 feet to the southerly line of lands conveyed by the aforesaid Michael Gillick to the City of Newburgh; thence along other lands of the City of Newburgh north 12 degrees 17 minutes west 1274.9 feet to the place of beginning. CONTAINING about 9.065 acres of land. Z

BEING the same premises described in a deed from the City of Newburgh to Veterans Memorial Grove Association of the County of Orange records December 31, 1935 in Liber 765 of Deeds at page 356.

|| ALSO, ALL that certain parcel of land situate in the Town of New Windsor, County of Orange and State of New York, adjacent on the westerly side of parcel No. 385 as shown on a map of the North Aqueduct Department Aqueduct Right of Way on file in the Orange County Clerk's office and thereon described as belonging to the Estate of Terence O'Reilly, and situated on the west side of said aqueduct taking west of Riley Road, south of the lands then of William H. Lockwood, north of land of the Estate of William F. Cooper and east of certain lands now belonging to the City of Newburgh, and in particular an irregularly shaped lot or parcel of meadow and woodland containing about 7.4 acres of land situate on the highest portion of the crest immediately west of the aforementioned parcel No. 386, together with the northerly right of way easement affording access over the said New York-Catskill Aqueduct to and from the aforementioned parcel of land to the said Riley Road for the purpose of ingress and egress. //

BEING the same premises described in a deed from Ernest J. Ranson and Ada H. L. Ranson, to The Veterans Memorial Grove Association of Orange County, Inc. dated July 5, 1934 and recorded in the Orange County Clerk's Office on July 9, 1934 in Liber 749 of Deeds at page 465.

~~IT BEING INTENDED HEREBY TO DESCRIBE AND CONVEY ALL THE LANDS OWNED BY THE PARTY OF THE FIRST PART LYING WEST OF THE NEW YORK CATSKILL AQUEDUCT IN SAID TOWN OF NEW WINDSOR.~~

It being intended hereby to describe and convey all the lands owned by the party of the first part lying west of the New York Catskill Aqueduct in said Town of New Windsor. (A)

1590 p1003

(A)

(A)

1990 10:10

Together with the appurtenances and all the estate and rights of the party of the first part, in and to the said premises.

Do have and to hold the premises herein granted unto the parties of the second part, their heirs and assigns forever, as tenants by the entirety.

And said FRANK PURDY, SR.

covenant as follows:

First. That said FRANK PURDY, SR.

has good right to convey the same; is seized of the said premises in fee simple and

Second. That the parties of the second part shall quietly enjoy the said premises;

Third. That the said premises are free from incumbrances; except as aforesaid,

fourth. That the party of the first part will execute or procure any further necessary assurance of the title to said premises;

fifth. That said FRANK PURDY, SR.

will forever warrant the title to said premises.

sixth. The grantor, in compliance with Section 13 of the Lien Law, covenants as follows: That he will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement, and that he will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the party of the first part has hereunto set his hand and seal the day and year first above written

In the Presence of:

Frank Purdy, Sr.
Frank Purdy, Sr.

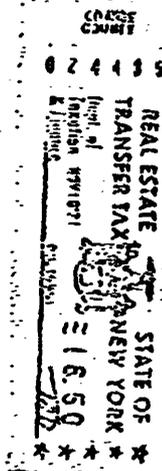
State of New York,
County of ORANGE

SS.:

On the 17th day of November, nineteen hundred and
seventy-one before me personally came
FRANK PURDY, SR., to me known
to be the individual described in, and who executed, the foregoing instrument, and
acknowledged that he executed the same.

Arthur C. Mahoney, Jr.
ARTHUR C. MAHONEY, JR.
Notary Public, State of New York
Qualified on April 12, 1971
Commission Expires March 22, 1973
My Official Number 13

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE



1890 1011

G-301-Z

Deed.

FRANK PURDY, SR.

TO

HERBERT L. KARTIGANER and
MARJORIE M. KARTIGANER

Dated, November 11th, 1971

Orange County Clerk's Office, s.s.

Recorded on the 16th day
of Nov. 71 at 1:34
o'clock P.M. in Liber 1820
Deeds at page 1008
and Examined.

C. N. Winter

R+R+Uy:

BROWNING AND STRADAR
383 Broadway
P.O. Box 2375
Newburgh, New York 12550

**PREVIOUS
DOCUMENTS
IN POOR
ORIGINAL
CONDITION**

STATUS REPORT - PARCEL TWO 65-1-17
HERBERT L. KARTIGANER and MARJORIE N. KARTIGANER

Number 94C 100276-II

CERTIFICATE FOR TITLE INSURANCE

Issued by

CHICAGO TITLE INSURANCE COMPANY

Chicago Title Insurance Company, a Missouri Corporation, herein called the Company, certifies to the Applicant named on the following page that an examination of title to premises described in Schedule A has been made in accordance with its usual procedure and agrees to issue the ALTA (10-17-92) Owner's or Lender's form of insurance policy as modified by the New York Coverage Endorsements in the amount and for the transaction set forth herein and subject to the exclusions from coverage and the conditions and stipulations therein contained.

After the closing of the transaction, in conformance with the requirements and procedures of the Company, the Company will issue the policy and except (i) all loss or damage by reason of the estates, interests, defects, objections, liens, encumbrances and other matters set forth in Schedule B herein that are not disposed of to the satisfaction of the Company prior to such closing or issuance of the policy (ii) any questions or objection coming to the attention of the Company before the date of closing, or if there be no closing, before the issuance of the policy.

IN WITNESS WHEREOF, Chicago Title Insurance Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the date shown in Schedule A.

Questions concerning the within Certificate should be directed to:

Issued by:
McCALL ABSTRACT CORP.
339 North Main Street
P.O. Box 795
New City, New York 10956
(914) 634-8833

CHICAGO TITLE INSURANCE COMPANY

By:

Dated: _____
Certified by: L. McCall
Authorized Signature



ATTEST:

President

Redated: _____
by: _____
Authorized Signature

Thomas J. Adams
Secretary

This certificate is intended for lawyers only. Such exceptions as may be set forth herein may affect marketability of title. Your lawyer should be consulted before taking any action based upon the contents of this certificate. The Company's representative at the closing hereunder may not act as legal advisor to any of the parties or draw legal instruments for them. Such representative is permitted to be of assistance only to an attorney. It is advisable to have your attorney present at the closing.

SCHEDULE A

1. Effective date: January 5, 1995

redated: , by
redated: , by

2. Policy or Policies to be issued:

(a) X Owner's Policy, ALTA 1992

\$STATUS SEARCH

Proposed Insured:

Parcel Two
Section 65 Block 1 Lot 17

(b) _____ Loan Policy, ALTA 1992

\$

Proposed Insured:

(c) _____ Leasehold Policy, ALTA 1992

\$

Proposed Insured:

3. Title to the fee simple estate or interest in the land described or referred to in this commitment is at the effective date hereof vested in:

HERBERT L. KARTIGANER and MARJORIE N. KARTIGANER, husband and wife

who acquired title by a deed from Frank Purdy, Sr., dated November 11, 1971 and recorded November 16, 1971 in Liber 1890 cp 1008.

4. The land referred to in this Commitment is described on the description sheet attached.

SCHEDULE B

Items numbered 1 through 21 inclusive are on the sheet attached hereto or enclosed herewith.

23. Taxes, Water Rents, Assessments and other Municipal Charges.

County of Orange

Town of New Windsor

Newburgh Central School District

Tax Designation: Section 65 Block 1 Lot 17

AVL: \$10,650/10,650

1994/95 School due 10/24/94 - \$187.91 PAID

1994/95 School due 12/21/94 - \$187.91 PAID

1994/95 School due 3/7/95 - \$187.91 OPEN #16597

1995 State, County & Town due 1/1/95 - \$377.80 OPEN

Water - Private

24. Mortgages and assignments thereof. - NONE

MORTGAGOR:

MORTGAGEE:

AMOUNT: \$

RECORDED:

DATED:

LIBER:

PAGE:

The Company requires an up to date written satisfaction payoff letter prior to closing from the Mortgagee(s) in order to close. Should any of the above mortgages be a Credit Line or Home Equity Mortgage, The Company requires proof that the account is frozen as of the date of closing. If a written payoff letter will not be present at closing selling attorney or homeowner must advise Company prior to closing.

25. Restrictive Covenants, Easements, Agreements, and Consents, Including Set-Back Established by Filed or Recorded Map set forth below, if applicable.

Subject to the rights of utility companies in, along and upon the premises as the same presently exist.

Subject to Grant to City of Newburgh to appropriate and take and use and continue to use now and at any and all times hereafter the entire waters of said Silver Creek at Patton Dam in Liber 259 cp 129.

Subject to Grant to American Telephone and Telegraph Company in Liber 681 cp 403 - COPY HEREWITH. (The 12' easement for ingress and egress set forth therein assigned to Veterans Memorial Grove Association of Orange County in Liber 747 cp 504 and thereafter granted to the City of Newburgh in Liber 766 cp 306).

Subject to Grant of right of way to American Telephone and Telegraph Company in Liber 681 cp 518 - COPY HEREWITH.

Grant to Central Hudson Gas & Electric Corporation and Highland Telephone Co. in Liber 763 cp 125 - COPY HEREWITH.

Subject to Covenant with City of Newburgh for construction and maintenance of fence adequate to keep intruders or trespassers from entering upon the lands of the city of Newburgh and agreement that that portion of premises situate on the watershed tributary to Brown's Pond shall not be used for picnics to camping grounds or construction of any buildings or structures whatsoever that will give encouragement to public gatherings as set forth in Liber 765 cp 356 - COPY HEREWITH.

Agreement between City of Newburgh and Veterans Memorial Grove Association of Orange County in Liber 766 cp 11 - COPY HEREWITH.

Release of right of way to Ranson in Liber 882 cp 75 - COPY HEREWITH.

Lease between Veterans Memorial Grove Association of Orange County and Walter Charles Henderson, Sr. in Liber 1213 cp 483 - COPY HEREWITH.

Agreement for 20 foot perpetual easement and/or right of way to the Village of Cornwall in Liber 1668 cp 33 - COPY HEREWITH.

-CONTINUED-

-CONTINUED-

Life Estate and right of way granted to Harry Stanbrough Monell (age - 79) in Liber 1730 cp 890 - COPY HEREWITH.

Agreement between Dowd & Purdy concerning rights of way (2) from Riley Road across lands of New York City aqueduct in Liber 1890 cp 1000 - COPY HEREWITH.

26. Survey: Any state of facts an accurate survey of the premises would reveal.

27. Proof is required to show that **NONE** has not been known by any other name in the ten (10) years last past. If she has been known by another name, all searches must be amended and run against such name(s) and title is subject to returns, if any, on such amended searches.

28. New York State Capital Gains Affidavit (TP-584) to be executed at time of closing by transferor/transferee. Where the consideration is \$500,000.00 or more a submission must be made to the New York State Department of Taxation & Finance for clearance. Said clearance must be present at the time of closing and should a Capital Gains tax be due a bank and/or certified check must be present at closing in the amount of the Capital Gains tax levied by the State of New York.

29. Company excepts unpaid real estate taxes.

NOTE: Provisions of Section 1416 of the tax law effective July 1st, 1989 require recording of instruments, where a transfer gains tax is due, on the first business day following the closing. Although the Company will use its best efforts to record instruments promptly, no liability is assumed for penalties and interest under this Section 1416 of the tax law due to the inability to file transfer gains tax returns and taxes within the time required. Due to this time pressure in recording instruments for those transactions requiring a payment of the transfer gains tax, it will be necessary for the Company to receive, direct checks, payable to the appropriate County Clerk's Office for transfer tax and mortgage tax. Said checks may be bank, certified from mortgage proceeds or attorney's trust accounts.

NOTE: The Foreign Investment In Real Property Tax Act (FIRPTA), as amended by the Deficit Reduction Act of 1984, requires that a transferee withhold ten (10%) of the sales price of a non-exempt transfer as tax and remit the same to the Internal Revenue Service where the transferor is a foreign person and the transferee is acquiring a United States Real Property Interest, as said terms are defined in FIRPTA and the regulations issued thereunder. This is effective as to transfers taking place on or after January 1st, 1985.

SCHEDULE A

ALL that tract or parcel of land situated in the Town of New Windsor, Orange County, New York, bounded and described as follows, to wit:

BEGINNING at a point in a stone wall in the northerly line of lands now or formerly of one Klamroth distant 212 and 4/10 feet on a course of South 83° 06' East from the northeasterly corner of lands conveyed by Margaret Recchioni to the City of Newburgh, and runs thence along the northerly line of lands of said Klamroth, being along a stone wall and extension of same, South 83° 06' East 1379 feet to a cross on a stone at the southerly end of a stone wall; thence along said last mentioned wall North 20° 41' West 380 and 4/10 feet to a cross on a stone in line of wall; thence still along said wall, North 20° 58' West 256 and 9/10 feet to a stone monument in said wall; thence still along said wall North 20° 48' West 452 and 4/10 feet to a stone monument in said wall; thence still along said wall North 19° 53' West 200 feet and 4/10 of a foot to a junction with another stone wall; thence along said last mentioned wall South 84° 01' East 434 and 3/10 feet to a wire fence, being along lands of the City of New York; thence along said wire fence, being along lands of the City of New York, North 13° 50' West 576 and 2/10 feet; thence North 22° 54' West 40 and 2/10 feet; thence still along said wire fence and lands of the City of New York North 31° 51' West 252 and 7/10 feet; thence South 11° 19' West 405 and 2/10 feet; thence South 34° 47' West 1716 and 9/10 feet to the place of BEGINNING. Containing about 25 & 59/100 acres.

TOGETHER WITH the right of the party of the second part, its successors and assigns, to use for the purpose of ingress and egress to the property hereinabove described, a strip of land twelve (12) feet in width, extending from the highway leading from Vails Gate to Mount Airy School along the westerly line of lands of said Klamroth to lands formerly of Corcoran, now of the City of Newburgh; thence easterly along the lands of said Klamroth to the premises above described, but the right to use said strip shall be subordinate and subject to the right of the party of the first part (American Telephone and Telegraph Co.) thereto; the party of the second part, its successors and assigns, hereby agrees and covenants with the party of the first part (American Telephone and Telegraph Co.) that it will from time to time and at all times hereinafter, at its expense, repair in a substantial and workmanlike manner, any and all damage to said strip of land caused by the party of the second part or by other persons using said strip of land with the knowledge, consent or permission of the party of the second part.

SAVE and EXCEPTING the following rights which are hereby reserved to the party of the first part (American Telephone and Telegraph Co.) its associated and allied companies, their respective successors, assigns, lessees and agents, its successors and assigns: An exclusive and perpetual right of way and easement to construct, reconstruct, operate, maintain and remove lines of telephone and telegraph, consisting of such poles, wires, cables, conduits, guys, anchors, loading pots and other fixtures and appurtenances as the party of the first part (American Telephone and Telegraph Co.) may from time to time, require, upon, across, over and/or under a strip of land one hundred (100) feet wide, across the property hereinabove described, the center line of said one hundred (100) feet wide strip is indicated by the pole line of the party of the first part as now located and constructed across the aforesaid property; also the right to make use of the land adjacent to the said one hundred (100) feet wide strip, while constructing, reconstructing, maintaining or removing said lines and fixtures; the further right to cross and recross the property hereinabove described at all times hereafter with vehicles and equipment for the purpose of exercising the rights herein reserved and for reaching points on the right of way of the party of the first part (American Telephone and Telegraph Co.) on neighboring lands; also the further right to cut and trim from time to time any trees and brush on said strip, and to permit the attachment of and/or carry in conduit wires and cables of any other company. This reservation shall not, however, prevent the grantee from constructing the necessary roads, walks, sewers and electric lines upon and under the said strip of land, provided that no road, walk, sewer, electric line or structure shall be erected or permitted on said strip of land without first obtaining the consent, in writing, of the grantor herein (Being intended to mean American Telephone and Telegraph Co.)

ALSO, ALL that certain lot, piece or parcel of land bounded and described as follows:

BEGINNING at a point in a stone wall in the northerly line of lands conveyed by Michael Gillick to the City of Newburgh and runs thence along the northerly line of said lands South 82° 56' East 297.5 feet to lands of the City of New York; thence along lands of the City of New York South 31° 51' East 554.1 feet to lands conveyed by the City of Newburgh to the American Telephone and Telegraph Company, thence along lands of the American Telephone and Telegraph Company South 11° 19' West 405.2 feet, thence still along lands of American Telephone and Telegraph Company South 34° 47' West 415.4 feet to the southerly line of lands conveyed by the aforesaid Michael Gillick to the City of Newburgh; thence along other lands of the City of Newburgh North 12° 17' West 1274.9 feet to the place of BEGINNING. Containing about 9.065 acres of land.

ALSO, ALL that certain parcel of land situate in the Town of New Windsor, County of Orange and State of New York, adjacent on the westerly side of Parcel No. 386 as shown on a map of the North Aqueduct Department Aqueduct right of way on file in the Orange County Clerk's office and thereon described as belonging to the Estate of Tereance O'Reilly, and situated on the west side of said aqueduct taking west of Riley Road, South of the lands then of William H. Lockwood, North of land of the Estate of William F. Cooper and east of certain lands now belonging to the City of Newburgh, and in particular an irregularly shaped lot or parcel of meadow and woodland containing about 7.4 acres of land situate on the highest portion of the crest immediately west of the aforementioned Parcel No. 386, together with the northerly right of way easement affording access over the said New York-Catskill Aqueduct to and from the aforementioned parcel of land to the said Riley Road for the purpose of ingress and egress.

IT being intended hereby to describe and convey all the lands owned by the party of the first part lying west of the New York Catskill Aqueduct in said Town of New Windsor.

The City of Newburgh
a municipal corporation
to
American Telephone and
Telegraph Company

F. C. W. Deed
Dated December 7, 1927
Cons. \$10.
Ack. December 7, 1927
Rec. December 9, 1927
Book 681 Page 403

Conveys:

All that tract or parcel of land situated in the Town of New Windsor, Orange County, New York, bounded and described as follows, to wit: Beginning at a point in a stone wall in the northerly line of lands of one Klamroth distant 212 and $\frac{4}{10}$ feet on a course of south 83 degrees 06 minutes east from the northeasterly corner of lands conveyed by Margaret Recchioni to the City of Newburgh, and runs thence along the northerly line of lands of said Klamroth, being along a stone wall and extension of same, south 83 degrees 06 minutes east 1379 feet to a cross on a stone at the southerly end of a stone wall; thence along said last mentioned wall north 20 degrees 41 minutes west 380 and $\frac{4}{10}$ feet to a cross on stone in line of wall; thence still along said wall, north 20 degrees 58 minutes west 256 and $\frac{9}{10}$ feet to a stone monument in said wall; thence still along said wall north 20 degrees 48 minutes west 452 and $\frac{4}{10}$ feet to a stone monument in said wall; thence still along said wall north 19 degrees 53 minutes west 200 feet and $\frac{4}{10}$ of a foot to a junction with another stone wall; thence along said last mentioned wall south 84 degrees 01 minute east 434 and $\frac{3}{10}$ feet to a wire fence in line of lands of the City of New York; thence along said wire fence, being along lands of the City of New York north 13 degrees 50 minutes west 576 and $\frac{2}{10}$ feet; thence north 22 degrees 54 minutes west 40 and

2/10 feet, thence still along said wire fence and lands of the City of New York north 31 degrees degrees 51 minutes west 252 and 7/10 feet, thence south 11 degrees 19 minutes west 405 and 2/10 feet; thence south 34 degrees 47 minutes west 1716 and 9/10 feet to the place of beginning. Containing about 25 & 59/100 acres.

Together with a right of way to the grantee and its assigns over a strip of land 12 feet in width extending from the highway leading from Vails Gate to Mont Airy School along the westerly line of lands of Klamroth to lands formerly of Corcoran now of the City of Newburgh: thence easterly along the line of lands of Klamroth to the premises above described, for ingress and egress.

* * *

Ernest J. Ranson

Ada Love Ranson

to

American Telephone and

Telegraph Company,

its associated and allied

companies their respective

successors, assigns, lessees

and agents

Grant

Dated November 14, 1927

Cons. \$5.00

Ack. December 2, 1927

Rec. December 17, 1927

Book 681 Page 518

Grants:

The right, privilege and authority to construct, reconstruct, operate and maintain lines of telephone and telegraph, consisting of such poles, wires, cables, conduits, guys, anchors and other fixtures and appurtenances as the grantee may from time to time require, upon, across, over and/or under the property which we own or in which we have any interest in the Town of New Windsor, County of Orange and State of New York and upon and along the roads, streets or highway adjoining the said property, with the right to trim from time to time any trees along said lines so as to keep the wires and cables cleared at least 36 inches and the right to permit the attachment of and/or carry in conduit wires and cables of any other company. The grantor for himself, his heirs, executors, administrators and assigns hereby covenants that no wire line will be erected or permitted on said property which in the judgment of the grantee, its successors and assigns, will interfere with its service or endanger its lines and that no inflammable structure will be erected or permitted on said property within 50 feet of

said lines. Said sum being received in full payment for the
rights herein granted. with the further right to cut trees
and brush.

* * *

The Veterans Memorial Grove
Association of Orange County
to
Central Hudson Gas and
Electric Corporation and
Highland Telephone Co .

2)
Grant
Dated May 19, 1935
Cons. \$1 etc.
Ack. October 8, 1935
Rec. October 9, 1935
Book 763 Page 125

Grants and conveys unto said corporations and either of them, their respective successors, assigns and lessees, an easement and right of way in, upon, over, under and across the lands of the undersigned including the roads and highways thereon and adjacent thereto, situate in the Town of New Windsor, County of Orange State of New York,

Together with the right at all times to enter thereon and have access thereto and to construct, relocate, operate and maintain thereon, and to repair, replace, protect and remove a line of poles including cables, wires, crossarms, guys, braces, underground conduits and all other appurtenances or fixtures adapted to the present or future needs, uses and purposes of said corporations their respective successors, assigns and lessees.

Together with the right also to attach guy wires to trees on said property and to trim, cut and remove trees and other objects thereon so as to provide a clearance of 10 feet from the property of said corporations.

Said easement and line shall extend from the property line of Gerow & Old Mt. Airy Rd on the south to the property line of Mertes & Old Reilly Rd on the north. Said line to be built along the highway.

The exact location of said easement and line to be as determined by said corporations having regard to the origin, general direction

and destination of said line and the requirements of said corporations.

Provided however that this right of way shall be void and of no effect less construction hereunder is commenced on the property covered hereby on or before one year from the date hereof.

The provisions hereof shall apply to and bind the heirs, legal representatives, successors, assigns and lessees of the undersigned and of said corporations respectively.

* * *

City of Newburgh
a municipal corporation
to
Veterans Memorial Grove
Association of the
County of Orange and
State of New York

B. & S. Deed
Dated December 30, 1935
Cons. \$1 etc.
Ack. December 30, 1935
Rec. December 31, 1935
Book 765 Page 356

Conveys:

All that certain lot, piece or parcel of land bounded and described as follows:

Beginning at a point in a stone wall in the northerly line of lands conveyed by Michael Gillick to the City of Newburgh and runs thence along the northerly line of said lands south 82 degrees 56 minutes east 297.5 feet to lands of the City of New York; thence along lands of the City of New York south 31 degrees 51 minutes east 554.1 feet to lands conveyed by the City of Newburgh to the American Telephone and Telegraph Company; thence along lands of the American Telephone and Telegraph Company south 11 degrees 19 minutes west 405.2 feet; thence still along lands of the American Telephone and Telegraph Company south 34 degrees 47 minutes west 415.4 feet to the southerly line of lands conveyed by the aforesaid Michael Gillick to the City of Newburgh; thence along other lands of the City of Newburgh north 12 degrees 17 minutes west 1274.9 feet to the place of beginning. Containing about 9.065 acres of land.

It being understood, however, that the party of the second part will at all times at its own proper cost and expense construct and maintain a fence approved by the City Council of the City of Newburgh, of sufficient strength and dimensions to keep intruders

or trespassers from entering upon the lands of the City of Newburgh. It is also understood and agreed that, by its acceptance of this deed, the party of the second part covenants and agrees that any portion of the above described tract situate on the watershed tributary to Brown's Pond shall not be used for picnics or camping grounds or for the construction of any buildings or structures whatsoever that will give encouragement to public gatherings.

* * *

Extra

The following recorded on January 13, 1936 in Book 766 of Deeds page 11.

AGREEMENT

State of New York

County of Orange SS AGREEMENT made this thirtieth day of December 1935, between City of Newburgh, N. Y., party of the first part, and Veterans Memorial Grove Association of Orange County (a Corporation organized under the laws of the State of New York) party of the second part,

Witnesseth: Whereas by Deeds in writing exchanged between the parties aforesaid, each of said Deeds bearing date the thirtieth day of December, 1935, and by which said Deeds the City of Newburgh, N. Y. is conveying unto the party of the second part a certain tract of land of approximately nine acres more or less lying, situate, and being upon the eastern slope of the high North-South ridge east of Brown's Pond Reservoir and west of the New York-Catskill Aqueduct in the Town of New Windsor, County of Orange, State of New York, and said Veterans Memorial Grove Association of Orange County is conveying by Deed, relinquishing unto the said party of the first part, all of said Association's privilege of use in and to the permanent easement right of way granted by Deed of the City of Newburgh, N. Y., to the American Telephone and Telegraph Company under date of December 7, 1927, it is hereby mutually agreed as follows:

1. That notwithstanding the provisions in the Deed bearing even date herewith, of the City of Newburgh, N. Y., to Veterans

Memorial Grove Association of Orange County, and which said provision relates to the erection and maintenance of a certain fence upon the western boundary line of the said nine acre tract therein conveyed, to prevent trespass from that tract over to the westward and upon lands of the City of Newburgh, it is well understood by the City Council of the City of Newburgh, N. Y., that the Veterans Memorial Grove Association of Orange County is not now at this time 'in funds' required for such fence construction; that at the present time all trespassing is prohibited by heavy chains and padlocks securing the entrance gates to the lands of the said Association, both to the 'Ranson Tract' upon the North, and to Shaft No. 1, Hoodna Siphon, upon the South; and, ^{that} all of the lands belonging to the Association are being 'posted' according to law for the prevention of trespassing; that as long as this condition remains as at present, and, until the construction work upon the improvement project of the Association is commenced, there can be no objection to allowing these lands to continue as they now are, adequately protected against trespass; and further that, when the Veterans Memorial Grove Association of Orange County shall be in funds, and/or the gates aforementioned shall be opened to general use, the construction and the maintenance of the fence hereinabove mentioned will be in order as required by the Deed which said Association is now receiving. (Deed: City of Newburgh, N. Y., to Veterans Memorial Grove Association of Orange County, December 30, 1935).

2. That concerning the verbiage employed in the Deed of the Veterans Memorial Grove Association of Orange County to City of

Newburgh, N. Y., covering the relinquishment of said Association's privilege to use the permanent easement right of way which was granted to the American Telephone and Telegraph Company by the City of Newburgh, N. Y., by deed bearing date the seventh day of December 1927, for the purpose of ingress and egress in the repair and maintenance of the telegraph and cable-lines, it is well understood by both the City Council of the City of Newburgh, N. Y., and by the party of the second part, likewise, that the relinquishment by said Association, by deed bearing even date herewith, of said Association's rights in the aforementioned permanent easement right of way in no way impairs, restricts, or prejudices the basic rights reserved by the American Telephone and Telegraph Company as originally granted to that Corporation by the above mentioned Deed of the City of Newburgh, N. Y., under date of December 7, 1927.

In Witness Whereof, the said parties have hereunto set their hands and seals the day and year first above written; for the party of the first part witness the signature of Honorable Chester J. Brown, Mayor, City of Newburgh, New York the Seal of said City and attesting certification of A. P. Templeton, City Clerk of the City of Newburgh, N. Y., and for the party of the second part, witness to the signature of Harry Stanbrough Monell, president of the Veterans Memorial Grove Association of Orange County (a Corporation organized under the laws of the State of New York, and which said Corporation has no corporate seal).

12-30-35

Chester J. Brown,

Mayor City of Newburgh, N.Y.

Veterans Memorial Grove Association of
Orange County

By Harry Stanbrough Monell,
President.

Veterans Memorial
Grove Association
of Orange County, Inc.,
a corporation organized
under the Membership
Corporation Law of the
State of New York

to

Ernest J. Ranson and
Ada H. L. Ranson
husband and wife

Release of Right of Way

Dated November 24, 1941

Cons. \$1.00 etc.

Ack. November 24, 1941

Rec. March 18, 1942

Book 882 Page 75

WHEREAS said Veterans Memorial Grove Association of Orange County, Inc. is the owner of certain lands lying adjacent to and along the westerly boundary line of lands of the New York - Catskill Aqueduct, in the vicinity of Shaft #1, Moodna Syphon, of said Aqueduct system; and, has, possesses, and makes use of, for purposes of ingress and egress, a certain cross-over leading westwardly from said Riley Road over said Aqueduct lands; and thence into the most northerly portion of said Association lands; and, also has, possesses, and makes use of, for ingress and egress, a right of way extending from said Riley Road over a road owned by the City of New York to and around said Shaft #1, Moodna Syphon, and thence westwardly into the most southerly portion of lands conveyed to said Association by American Telephone and Telegraph Company, said "North cross-over" being north of certain lands owned by Ernest J. Ranson and Ada H. L. Ranson, said Ranson lands being bounded on the east by said Riley Road and on the west by lands of the City of New York, New York -

Catskill Aqueduct, North of said Shaft #1, Moodna Syphon;

AND WHEREAS the said lands of Veterans Memorial Grove Association of Orange County, Inc., are located, as aforesaid, along the westerly line of said Aqueduct lands owned by the City of New York, and westerly of certain lands of said Ernest J. Ranson and Ada H. L. Ranson, which front on the westerly side of Riley Road and are opposite and across said Aqueduct lands from said lands belonging to said Veterans Memorial Grove Association; and whereas said Ernest J. Ranson and Ada H. L. Ranson desire to sell in parcels their above mentioned lands; and whereas said Veterans Memorial Grove Association of Orange County, Inc., desires to assure them that their said lands shall not be affected by or subject to any right of way or rights of way leading from Riley Road across their said lands and to lands of Veterans Memorial Grove Association of Orange County, Inc.

Remises, releases and forever discharges the said lands and premises of said Ernest J. Ranson and Ada H. L. Ranson from any right of way easement or rights of way easements, whether created by grant, usage or otherwise, across, through or upon their said premises from Riley Road to the said lands and premises of said Veterans Memorial Grove Association of Orange County, Inc., at any point or place between said Aqueduct cross-over north of said Ranson lands and southwardly therefrom along said Aqueduct lands to said Moodna Syphon where such said easement right might have heretofore existed; and said Veterans Memorial Grove Association of Orange County, Inc., does hereby declare that the said premises of Ernest J. Ranson and Ada H. L. Ranson shall be hereafter held free and clear of any right of way easement for ingress and egress from Riley Road to said lands

of Veterans Memorial Grove Association of Orange County, Inc.

• • •

1213 of 483

- L E A S E -

Made and executed between

WILLIAM WILSON, THOMAS WILSON and WALTER CLARK COMPANY
a corporation

a corporation of the State of New York, having its principal office in the
No. 100 Street of Number
City of Newburgh, County of Orange, State of New York, of the first part,

- and -

WALTER CLARK COMPANY, INC.

31 Carter Street
of the City of Newburgh, and the Town of New Windsor, County of Orange,
State of New York, of the second part, this 22nd day of October in the year
One thousand nine hundred and fifty-one.

IN CONSIDERATION of the conditions and covenants hereinafter contained,
the said party of the first part has granted and granted, and does hereby
grant and lease to the said party of the second part the certain parcel
of land situate, lying, and being, northwesterly from Mills Gate Junction
on the Newburgh right-of-way line of the NEW YORK RAILROAD COMPANY in the Town
of New Windsor, and being in particular described as follows:

BEHAVING at the point of intersection of
the westerly right-of-way line of NEW YORK RAILROAD
COMPANY's Newburgh Shortline with the division
line between lands of NEW YORK RAILROAD COMPANY on
the North and lands of WALTER CLARK COMPANY on
the South;

(1) Thence northwesterly, along said last-
mentioned division-line, one hundred forty (140)
feet, more or less, to the southwesterly right-
of-way line of NEW YORK RAILROAD COMPANY's Newburgh
Shortline;

(2) Thence northwesterly, along the northern
line of land conveyed as the second of two parcels
of land by deed dated September 22, 1910, to
William May of Newburgh and Frederick May
Company, recorded in Liber 218 of page 284 of
Orange County Real Records, New Windsor County,
(120) feet, more or less, to said westerly right-
of-way line of NEW YORK RAILROAD COMPANY's Newburgh
Shortline;

(3) Thence westerly, along said westerly
right-of-way line of NEW YORK RAILROAD COMPANY's
Newburgh Shortline, two hundred thirty (230) feet,
more or less, to the point or place of beginning,
and containing thirty-four hundredths (0.84) of
an acre, more or less.

Being all of the second of two parcels of

land conveyed as aforesaid by deed dated September 27, 1934

TOGETHER WITH the appurtenances and rights thereto, the said aforesaid parcel of land in its present unimproved condition, for agricultural purposes, as now possessed by the party of the first part is and to said premises and every part and parcel thereof. For and during the full term of the leasehold hereby created, commencing as of and from the date of this instrument, and extending thereafter to the date when title to the adjoining lands now held by and standing in the name of the adjoining property owner (VALTER CLAREN HEMMINGWAY, Sr.) shall cease and determine here- at such future time as the party of the first part shall, after due notice to and with the expressed consent and approval of the party of the second part, that determine upon and proceed with plans for the improvement of said aforesaid parcel by Veterans Memorial Grove Association of Orange County in corporate

IN CONSIDERATION of the leasehold herein granted, the party of the second part - owning lands adjoining the parcel hereinbefore described - has agreed to pay, as rent for said leasehold-term, and hereby delivers unto the party of the first part, the sum of One (\$1.00) Dollar, lawful money of the United States of America, together with a certain deed-of-conveyance to bear and bearing even date herewith, and by which is granted in perpetuity to said party of the first part an Easement Right-of-way, ten (10) feet in width, extending in a north-northeasterly direction from the Old Wiley Road Public Highway (as-and) and over lands now owned by the party of the second part, as a necessary means of ingress and egress to and from aforesaid parcel now owned by the party of the first part under deed-of-conveyance from THE RAILROAD COMPANY to VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY bearing date of 8 September 1931, and thereafter recorded in the office of the Clerk of Orange County on the 25th day of September 1931, in Liber 1209 of Deeds, at page 39.

AS further consideration for this leasehold and by his acceptance of this 'Leasehold Agreement' the said party of the second part, for himself and his successors and assigns, heretofore and hereinafter as follows:

FIRST: He assumes full responsibility for maintenance and the maintenance of all legal fences along the boundaries of the premises aforementioned, and to indemnify and save harmless the said party of the first part, its successors and assigns, from failure so to do.

SECOND: The party of the second part hereby covenants not to sub-let or re-let said premises or any portion thereof, without the express written consent of said party of the first part; and, that in case he violates this covenant, it is hereby expressly agreed that the said party of the second part shall, at the option of the said party of the first part and by reason of such a violation, thereupon become a tenant of said premises holding over after expiration of said term without permission of said landlord; and, subject to removal under the Statute.

The party of the second part covenants that at the expiration of said term he will surrender say said premises to the party of the first part in as good condition as now, necessary wear and damage by Act of GOD and/or by the elements excepted.

IN WITNESS WHEREOF, the hands and seals of the said parties, the day and year first above written.

VERMONT MEDICAL GROUP, INC. - VERMONT COUNTY
(Incorporated)

Witness:
Walter J. Storer
WALTER J. STORER
Secretary, VMAA

[Signature]
37
NIGHT SUPERVISOR MEDICAL
Chairman, Board of Trustees L.S.

[Signature]
WALTER J. STORER, Sr.
VERMONT COUNTY MEDICAL GROUP, INC.

STATE OF NEW YORK
COUNTY OF ORANGE

In this deed of conveyance in and from the persons herein named
SAMUEL WASHINGTON HUBBARD, as executor, who being by me duly sworn,
did depose and say that he resided at Valley Gate, New York, that he is
the Chairman, Board of Trustees, of VERMILION HIGHLAND GROVE ASSOCIATION
OF GLENY COVEY, the corporation described in and which executed the
above instrument; that said seal affixed is the private seal of said Trustee
above instrument; that said corporation has its corporate seal; that he
and affixed his said seal as such Trustee
signed his name to said instrument by order of the Board of Trustees of
said Corporation.

[Handwritten Signature]
WILLIAM B. HUBBARD

Notary Public
in and for the State of New York
My Commission Expires 1953

A true record entered November 1st, 1951 at 1 P. M.

[Handwritten Signature]
C. L. [unclear]

**PREVIOUS
DOCUMENTS
IN POOR
ORIGINAL
CONDITION**

THIS INDENTURE, made this fifteenth day of June 1964, by and between the VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY (a corporation) incorporated under the laws of the State of New York, and having office for the transaction of business at 'Lynde Qtrs' upon the 'Rq Tract, VMA' of this Association, on Biley Road, Town of New Windsor; and, with mailing-address at P.O. Box 194, Falls Gate Post-Office, New York 12564; party of the first part --and--

The VILLAGE OF CORNWALL, a municipal corporation of the State of New York, with office for transaction of business at #5 River Avenue, Cornwall-on-Hudson, New York; party of the second part,

WITNESSETH; that the party of the first part, in consideration of payment of TEN and 00/100 DOLLARS (\$10.00) in lawful money of the United States and other good and valuable consideration, paid by the party of the second part,

Does hereby grant and release unto the party of the second part, its successors and assigns, in accordance with the express provisions and terms contained in the certain option-agreement bearing date of 30 January 1964, executed by-and-between the parties hereto, if option-to-purchase as therein contained, be exercised by the party of the second part in accordance and compliance with the provisions and terms of the said option-agreement, an easement and/or right-of-way over, upon, and under said 'Rq Tract, VMA' lands of the party of the first part, the said easement and right-of-way herein being granted being more particularly described as follows:

A 20-foot wide temporary-easement, to become a 20-foot wide perpetual-easement on lands owned by VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY (a corporation) adjoining, westerly-from and parallel-to the Westerly R-O-W boundary-line of the lands of NEW YORK STATE THRUWAY AUTHORITY, commencing upon Biley Road (a Town of New Windsor public-highway) at a POINT situate upon the Westerly R-O-W boundary-line of said NEW YORK STATE THRUWAY AUTHORITY, and thence in Southerly-direction a distance of 575-feet more-or-less, to the Northwesterly R-O-W boundary-line of lands of the ERIE RAILROAD (Newburgh Branch); and, more exactly described as

BEGINNING at a concrete highway-monument found at the intersection of the Northwesterly-line of lands of ERIE RAILROAD COMPANY (Newburgh Branch) and the Westerly-line of lands of NEW YORK STATE THRUWAY AUTHORITY, as acquired by the PEOPLE OF THE STATE OF NEW YORK from said VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY (a corporation); thence South 28 degrees 50 minutes West 34.71-feet, along said Northwesterly-line of lands of ERIE RAILROAD COMPANY (Newburgh Branch) and along the boundary-line stonewall-fence to a POINT; thence upon the following FOUR-courses through, over-and-upon said 'Rq Tract, VMA' lands of said VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY (a corporation), North 6-degrees 21 minutes West 226.32-feet, parallel-to and distant Westerly 20-feet (measured at right angles) from the aforesaid Westerly-line of lands of the said NEW YORK STATE THRUWAY AUTHORITY, to a POINT; thence North 12 degrees 30 minutes West 216.30-feet, parallel-to and distant 20-feet Westerly (measured at right

angles) from the aforesaid Westerly-line of lands of said NEW YORK STATE THRUWAY AUTHORITY, to a POINT; thence North 13 degrees 12 minutes West, 92.07-feet (as parallel-to and distant 20-feet Westerly (measured at right angles), from the aforesaid Westerly boundary-line of lands of NEW YORK STATE THRUWAY AUTHORITY, to a POINT in the remains of a stonewall-fence upon the Southeasterly-side of the former-location of Riley Road, and thence North 13 degrees 12 minutes West 41.21-feet more or less to the centerline of said former-location of Riley Road; thence North 24 degrees 09 minutes East 32.97-feet along said centerline of the former-location of Riley Road and being on-and-along the Northwesterly boundary-line of lands conveyed by George Everett HARRIS and Essie (STRICKLAND) HARRIS, his wife, to VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY (a corporation) on 16 April 1935 and thereafter recorded in the Orange County Clerk's Office at Goshen, N.Y., in Liber 757 of Deeds at page 519, to a POINT in the aforementioned Westerly R-O-W boundary-line of lands of the NEW YORK STATE THRUWAY AUTHORITY; thence upon the following FOUR courses running in Southerly-direction along said Westerly R-O-W boundary-line of the aforesaid lands of NEW YORK STATE THRUWAY AUTHORITY (and running approx 1.5-feet more-or-less Westerly of/from the steel-post and woven-wire fence in part), South 13 degrees 12 minutes East 41.21-feet more-or-less, to a concrete monument as found in the aforementioned stonewall-remains upon the Southeasterly-side of the former location of said Riley Road; thence South 13 degrees 12 minutes East 118.40-feet to a concrete highway-monument found; thence South 12 degrees 30 minutes East 217.50-feet to a concrete highway-monument found; and thence South 6 degrees 21 minutes East 199.03-feet to the POINT OF BEGINNING.

Also a temporary-easement 10-feet in width (measured at right-angles) running Southerly from the centerline of the former-location of Riley Road a like-distance of approx 575-feet, to said Northwesterly boundary-line of said lands of said ERIE RAILROAD COMPANY (Newburgh Branch) upon the South, the said temporary-easement, 10-feet in width, running parallel-with and contiguous-to the Westerly boundary-line of the 0.264-acre parcel of land hereinabove described.

Together with right at all times to enter thereon, and to have access thereto for the purposes of construction and location, relocation, operation and maintenance thereon and to repair, replace, protect and/or remove water-mains, lines or valves, and all other appurtenances and fixtures adapted to present-and-future needs, uses, and purposes of the party of the second part, its successors or its assigns.

Together with the right to cut, trim, and remove at any time by any appropriate means, such trees and other objects now thereon, or upon said 10-foot wide strip of property of the party of the first part, and being within the distance of not more than 30-feet Westward from the Westerly R-O-W boundary-line of said lands of NEW YORK STATE THRUWAY AUTHORITY aforescribed, and upon said Tract, VEDA' owned by VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY (a corporation), as

In the judgment of the party of the second part, or its successors or assigns, may interfere with, obstruct or endanger the construction, maintenance or operation of said easement-right, water-lines and/or the fixtures thereof; and this provision being granted to the party of the second part without prejudice to and with full reservation of, all legal rights possessed by the party of the first part for the protection of its lands and the natural tree and vegetation-growth thereon standing.

The party of the first part further agrees that it will not place any type of structure or other obstruction upon the said right-of-way hereby conveyed; and, it being further provided that any damage to the property of the party of the first part, caused solely by the party of the second part, its successors or assigns, or its agents or employees, in maintenance or repair of said water-lines shall be adjusted and satisfied at the expense of the party of the second part, its successors or assigns, as promptly as practicable following notification to the party of the second part by the party of the first part.

The provisions herein contained shall inure to and be binding upon successors or assigns of both the party of the first part and the party of the second part, respectively.

IN WITNESS WHEREOF, the party of the first part has set its hand and seal the date and year first above written.

VETERANS MEMORIAL GROVE ASSOCIATION
-of- ORANGE COUNTY (a corporation)

[Signature]
HARRY STANBROUGH HOWELL
Chairman, Board of Trustees, VEMA
POBx 194, Falls Gate P.O., N.Y.

ATTEST:

[Signature]
WILBUR J. STONE, Secretary
VETERANS MEMORIAL GROVE ASSOCIATION
-of- ORANGE COUNTY (a corporation)

COL H S FIONELL
15 JUN 1954

STATE OF NEW YORK)
) ss-
COUNTY OF ORANGE)

On this -fifteenth day of June 1964- before me came HARRY STANROUGE MONELL, Colonel, C.A.C., Retired, to me known and who being by me duly sworn, did depose and say that he resides in the 'Lynde Quarters' upon the 'Bq Tract, VMGA' upon Riley Road, Town of New Windsor; that he is Chairman, Board of Trustees, of the VETERANS MEMORIAL GROVE ASSOCIATION -of- ORANGE COUNTY (a corporation), the Corporation described in and which executed the foregoing instrument; that he knows said Corporation has no Corporate Seal; that his signature was affixed thereto by order of said Board of Trustees VIZA, of the said Corporation.



RAYMOND H. BRADFORD
Notary Public in the State of N. Y.
Residing in Orange County
Commission Expires March 30, 1966

VMA CORPORATE 'CONSENT-PAPER'

WE the undersigned, constituting a majority of the Board of Trustees of VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY (a corporation) organized under the laws of the State of New York, with an office for the transaction of business at the 'Lynde Qtrs' upon the 'Hq Tract, VMA' on Riley Road, Town of New Windsor, and mailing-address at PO Ex 194 at Vails Gate Post-Office, New York 12564, do hereby CONSENT:

That said VETERANS MEMORIAL GROVE ASSOCIATION (a corporation) execute and deliver to the incorporated VILLAGE OF CORWALL, NEW YORK, a perpetual-easement 20-feet in width and a contiguous temporary-easement 10-feet in width, required for the placement and maintenance of municipal water-supply lines upon-and-across the 'Hq Tract' VMA-lands of said VMA-Corporation, description of such easement site-location being as follows:

ALL these easements or right-of-way being situate in the Town of New Windsor, County of Orange, State of New York; and being bounded and described as follows:

BEGINNING at a concrete highway-monument found at the intersection of the Northwesterly R-O-W boundary-line of lands of ERIE RAILROAD COMPANY (Newburgh Branch) -and- the Westerly R-O-W boundary-line of lands of the NEW YORK STATE THRUWAY AUTHORITY acquired by the STATE OF NEW YORK from said VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY (a corporation); thence South 28 degrees 50-minutes West 34.71-feet and along the stonewall boundary-line fence to a POINT; thence upon the following FOUR courses over-and-upon Hq Tract-lands of VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY (a corporation). North 6 degrees 21 minutes West 226.32-feet, parallel-to and distant Westerly 20-feet (measured at right angles) from the aforesaid Westerly R-O-W boundary-line of said lands of NEW YORK STATE THRUWAY AUTHORITY to a POINT; thence North 18 degrees 30-minutes West 216.30-feet, parallel-to and distant 20-feet Westerly (as measured at right angles) from the aforesaid Westerly boundary-line of said lands of the NEW YORK STATE THRUWAY AUTHORITY to a POINT; thence North 13 degrees 12 minutes West 92.07-feet, parallel-to and distant 20-feet Westerly (measured at right angles) from the aforesaid Westerly-line of lands of NEW YORK STATE THRUWAY AUTHORITY to a POINT in the remains of a stonewall-fence upon the Southeastern-side of the former-location of Riley Road, and North 13 degrees 12 minutes West 41.21-feet more or less, to the centerline of said former-location of the said Riley Road; thence North 24 degrees 09 minutes East 32.97-feet along the centerline of said former-location of Riley Road and being along the Northwesterly boundary-line of lands conveyed by George Everett HARRIS and Bessie (STRICKLAND) HARRIS, his wife, to the VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY (a corporation) upon 18 April 1935 and thereafter recorded in the Orange County Clerk's Office, at Coshen, N.Y., in Liber 757 of Deeds at page 519; to a POINT in the aforementioned lands of NEW YORK STATE THRUWAY AUTHORITY; thence upon the following FOUR courses along the Westerly R-O-W boundary-line of the aforesaid lands of NEW YORK STATE THRUWAY AUTHORITY and running 1.5-feet more-or-less, Westerly of/from the steel-post and woven-wire fence in part; thence South 13 degrees 12 minutes East 41.21-

feet more or less, to a concrete-monument found in the aforementioned stonewall-fence-remains upon the Southeasterly-side of the former location of Riley Road; thence South 13 degrees 12 minutes East 118.40-feet to a concrete highway-monument found; thence South 12 degrees 30 minutes East 217.50-feet to a concrete highway-monument found; and thence South 6 degrees 21 minutes East 199.03-feet to the POINT of BEGINNING.

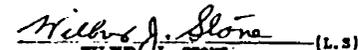
Also a temporary-easement 10-feet in width [measured at right angles] running from the centerline of said former-location of Riley Road, and in a Southerly-direction to the Northwesterly E-O-W boundary-line of lands of the ERIE RAILROAD COMPANY (Newburgh Branch), the said temporary-easement running parallel-to and contiguous to the Westerly boundary-line of the 0.264-acre 'perpetual-easement' parcel hereinabove described.

That the said easements are to be delivered to said VILLAGE OF CORNWALL upon the delivery to said VMAA-Corporation of payment therefor, at the rate of ONE DOLLAR (\$1.00) per running-foot of said grant, approx 575-feet in length.

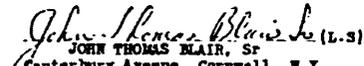
That in addition thereto, the said VMAA-Corporation shall grant to the said VILLAGE OF CORNWALL, NEW YORK, the right to enter upon and cross the adjacent remaining E4 Tract VMAA-lands of said VMAA-Corporation for the purpose of repair or maintenance of the said municipal water-supply line now to be installed.

Dated this fifteenth day of June 1964 -


HARRY STANBROUGH MONELL (L.S.)
POBx 194, Vails Gate P.O., N.Y.

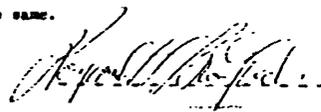

WILBUR J. STONE (L.S.)
64 Second Street, New City, N.Y.


WALTER C. HENDERSON, Sr. (L.S.)
Old Riley Road, Vails Gate, N.Y.
(POBx 152, Vails Gate P.O., N.Y.)


JOHN THOMAS BLAIR, Sr. (L.S.)
Canterbury Avenue, Cornwall, N.Y.

STATE OF NEW YORK)
COUNTY OF ORANGE) ss-

On this fifteenth day of June 1964, before me personally appeared the above subscribers: Harry Stanbrough MONELL, Wilbur J. STONE, Walter C. HENDERSON, Sr., John Thomas BLAIR, Sr., to me personally known and known to me to be the persons described in and who executed the within instrument, and they severally made acknowledgment to me that they executed the same.



Notary Public in the State of N. Y.
Residing in Orange County
Commission Expires March 30, 19 56

W. J. Stone
Notary Public in the State of N. Y.
Residing in Orange County
Commission Expires March 30, 1956

The undersigned, Secretary of the Corporation named in the foregoing 'BOARD OF TRUSTEES' consent, does hereby certify:

That at a meeting of the 'Board of Trustees, VEMA', and at which a quorum was present, the said Board of Trustees VEMA adopted a Resolution which has not been rescinded or modified, authorizing the Corporation to execute and deliver an 'easement-agreement' to the incorporated

-- VILLAGE OF CORNWALL, NEW YORK --

for the laying and maintaining of its municipal water-supply lines.

IN WITNESS WHEREOF, I have executed my signature to this Certificate upon this fifteenth day of June 1964.

Wilbur J. Stone
WILBUR J. STONE, Secretary
VETERANS MEMORIAL GROVE ASSOCIATION
-of- ORANGE COUNTY (a corporation)

STATE OF NEW YORK)
) ss-
COUNTY OF ORANGE)

On this fifteenth day of June 1964, before me came WILBUR J. STONE, to me known and who by me having been duly sworn, did depose and say that he resides in New City, New York; and, that he is the Secretary and a member of the Board of Trustees of VETERANS MEMORIAL GROVE ASSOCIATION OF ORANGE COUNTY (a corporation), the Corporation described in and which has executed the foregoing instrument; that he knows the said Corporation has no Corporate Seal; that his signature was signed upon said Corporate instrument by order of the said 'Board of Trustees, VEMA' of said Corporation.

Raymond H. Bradford
RAYMOND H. BRADFORD
Notary Public in the State of N. Y.
Residing in Orange County
Commission Expires March 30, 1966

1668
pc
40

VETERANS MEMORIAL GROVE
ASSOCIATION OF ORANGE COUNTY

to

VILLAGE OF CORNWALL, NEW
YORK,

GRANT OF EASEMENT

Record and Return to:

RAYMOND H. BRADFORD
Attorney at Law
388 BROADWAY
NEWSBURGH, NEW YORK

Orange County Clerk's Office, S.S.
Recorded on the ...¹⁹th day
of ...^{June} 1967 at ...^{7:00}
of'clock ...¹¹ M. in Liber ...¹⁶⁶⁸
...^{Brad} at page ...²³...
and Examined.

R. Sturman Clerk

STATE OF NEW YORK |
COUNTY OF ORANGE | ss-

1739 16 853

THIS INDEBTURE (AGREEMENT)

formally made upon this twenty-second day of September, nineteen hundred and sixty-five, by and BETWEEN

FRANK WALTER FURDY (earlier being variously known as Frank Parfy, Jr., and more recently as Frank Parfy, Sr), residing at (no number) Moores Hill Road, in the Town of New Windsor, County of Orange, State of New York, party of the first part. --and--

HARRY STANBROUGH MOWELL, Colonel, C.A.C., Retired, WWI-disabled veteran and now in his 79th year, resident for a past period of over thirty years in the Lynde Qtrs VMA, upon the Headquarters Tract of Veterans Memorial Grove Association of Orange County (a corporation), situate at (no number) Riley Road, Town of New Windsor, County of Orange, State of New York.

WITNESSETH, That the party of the first part herein, in pursuance of earlier mutual agreement-and-understanding that the party of the second part continue his residence in said Lynde Qtrs VMA, upon the said Hq Tract of said Veterans Memorial Grove Association of Orange County (a corporation), following the recording of a certain Deed-of-Conveyance bearing date 26 July 1965 and thereafter duly recorded upon 19 August 1965, in the County Clerk's Office at Coshen, New York, in that deed-book known as Liber 1722 at pp. 304, the said party of the first part, acting in conformity to/with said earlier and prior mutual agreement, hereby irrevocably GRANTS unto the said party of the second part a continued full-and-free occupancy-and-use of said Lynde Qtrs VMA together with it's adjunct garage and other structure thereon and thereto pertaining, without payment by the party of the second part of any rent or other charge or charges therefor, said GRANT to run with the land for as long a period of time as said party of the second part shall continue to live; and, together with a continued right-of-use of the present-existing entrance-roadway running from the aforementioned Lynde Qtrs VMA -to- said Riley Road, a public highway of the said Town of New Windsor.

Frank Walter Parfy
Frank Walter Parfy L.S.
FRANK WALTER FURDY

STATE OF NEW YORK |
COUNTY OF ORANGE | ss-

On this 22nd day of November 1965, before me personally came FRANK WALTER FURDY, to me known to be the individual described in, and who executed the foregoing instrument, and acknowledged that he executed the same.

William E. Monahan
William E. Monahan, Notary Public
Orange County, New York
My commission expires March 31, 1966

ABBOTT - MCNELL, Esqs
(Consultants in Federal Law)
POBx 1002, Washington 13, D.C

DEED -
(AGREEMENT)

FRANK WALTER FORDY

-- TO --

HARRY STANBROUGH MOKELL
Colonel, C.A.C., Retired

Dated, 22 September 1965

RECORD AND RETURN TO:

Col. H. S. MOKELL
FORx 194, Vails Gate P.O., N.Y. 12594

275
Y

Orange County Clerk's Office, S.S.
Recorded on the 24th day
of Nov, 1965, at 1:45
o'clock P. in Liber 1930
Deeds at page 870
and Examined.

[Signature]
Clerk

1730 16 891

1590 2000

THIS AGREEMENT made this 10 day of ^{SEPTEMBER} *hence*, 1971,

between THOMAS G. DOWD and MILDRED C. DOWD both residing at 135 Quassaick Avenue, Town of New Windsor, Orange County, New York, parties of the first part, and FRANK PURDY, SR., residing at (no number) Moores Hill Road, Town of New Windsor, Orange County, New York, party of the second part,

WHEREAS, the parties of the first part by deed dated September 19, 1958 and recorded in the Orange County Clerk's Office on October 16, 1958, in Liber 1479 of Deeds at page 369, obtained title to all lands owned by Ernest Ranson and Ada E. Ranson located in the Town of New Windsor, Orange County, New York, and

WHEREAS, the party of the second part is the owner of premises located in the Town of New Windsor, Orange County, New York, described in a certain deed from Harry Stanbrough Monell to Frank Purdy, Sr. dated July 26, 1965 and recorded in the Orange County Clerk's office on August 19, 1965 in Liber 1722 at page 304 and said Harry Stanbrough Monell acquired said property from the Veterans Memorial Grove Association of Orange County, Inc. by deed dated July 2, 1965 and recorded in the Orange County Clerk's Office on August 4, 1965 in Liber 1720 at page 963, and

WHEREAS, the Veterans Memorial Grove Association, Inc. did release a right of way to said Ernest and Ada Ranson by deed dated November 24, 1941 and recorded in the Orange County Clerk's Office on March 18, 1942 in Liber 882 at page 75, and

WHEREAS, in fact there existed an unrecorded right of way leading from said Riley Road across lands of the said Ranson now owned by the parties of the first part which had given access to the lands owned by the party of the second part prior to the installation of the New York City Aqueduct and there is a second right of way leading from said Riley Road across lands of said

Aqueduct into the most northerly part of the said lands now owned by the party of the second part, which said right of way is described on map of Parcel #386 of lands of the Aqueduct of the City of New York on file in the Office of the County Clerk of Orange County as the most northerly right of way shown on said map, and WHEREAS, there exists an ambiguity as to which of said two rights of way the aforesaid release dated November 24, 1941 refers to, NOW, in consideration of ONE (\$1.00) DOLLAR and other good and valuable consideration and mutual releases hereinafter set forth:

1. The parties of the first part do hereby release, remise, and quitclaim unto the party of the second part any and all interest which the parties of the first part now have or may have in the aforesaid right of way leading from Riley Road across lands of the New York City Aqueduct to lands of the party of the second part as shown as the most northerly right of way on said/Parcel #386 of the New York City Aqueduct, and

2. The party of the second part does hereby release, remise and quitclaim unto the parties of the first part any and all interest which the party of the second part now has or may have in the aforesaid unrecorded right of way leading from Riley Road across lands acquired by the party of the second part from Ranson as aforesaid and any interest in any other right of way recorded or unrecorded which the parties of the first part have or may have in the aforesaid lands acquired from Ranson.

This agreement shall be binding upon and enure to the benefits of the heirs, administrators, executors and assigns of the respective parties hereto.

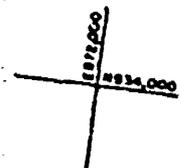
Frank Purdy Sr. L.S.
Thomas G. Dowd L.S.
Mildred C. Dowd L.S.

STATE OF NEW YORK:
COUNTY OF ORANGE : ss.

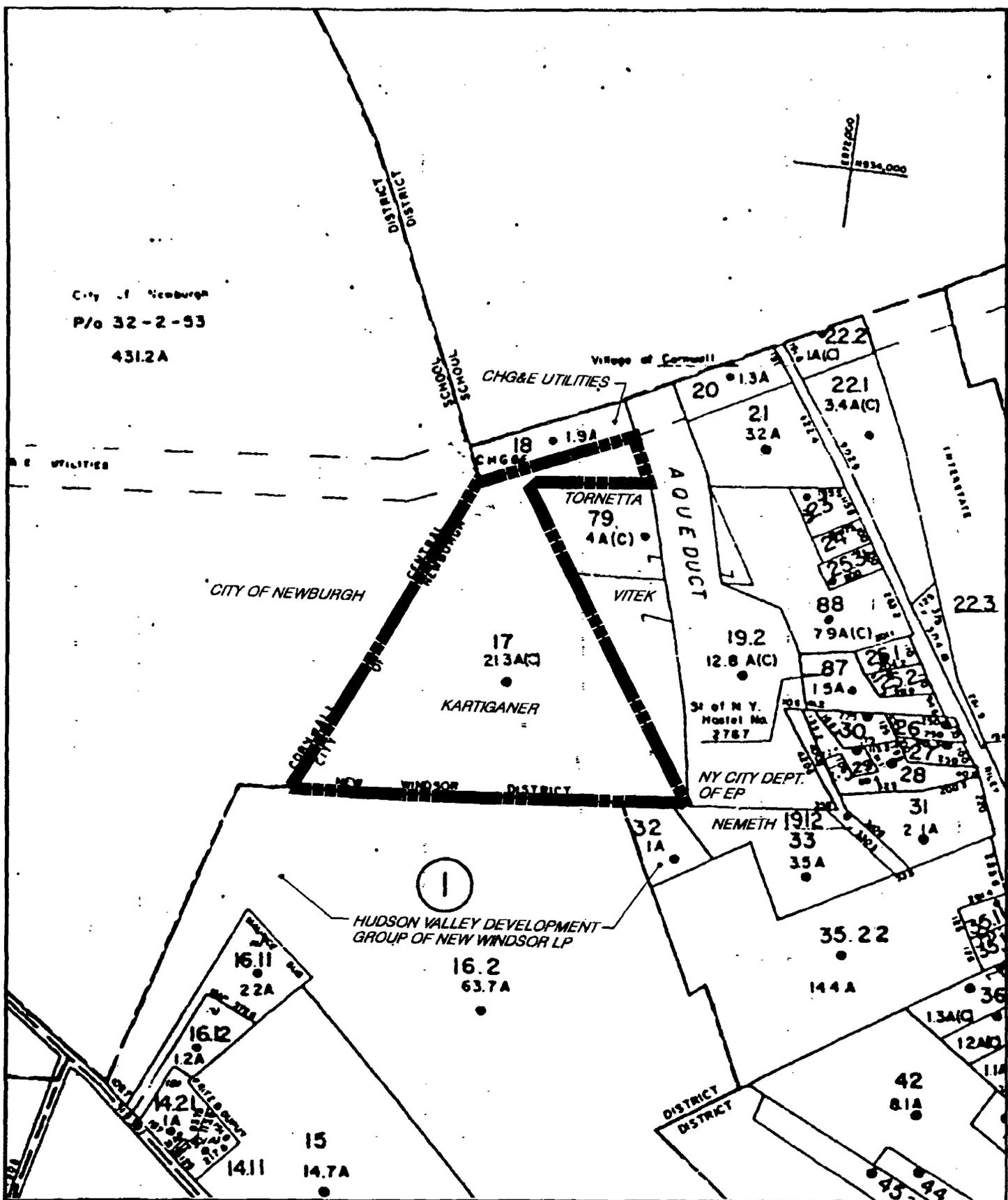
On this 10 day of November, 1971, before me personally came THOMAS G. DOWD, MILDRED C. DOWD and FRANK PURDY, SR., to me known to be the individuals described in, and who executed the foregoing instrument and they duly acknowledged that they executed the same.

Gregory H. Libbey
Notary Public
1390 rt 1001

**PREVIOUS
DOCUMENT
IN POOR
ORIGINAL
CONDITION**



City of Newburgh
P/o 32-2-53
431.2A



CLOUGH, HARBOUR & ASSOCIATES LLP
ENGINEERS, SURVEYORS, PLANNERS
& LANDSCAPE ARCHITECTS

III WINNERS CIRCLE - ALBANY, NEW YORK - 12205
P.O. BOX 5269 518-453-4500

**ORANGE COUNTY POUGHKEEPSIE MSA
LIMITED PARTNERSHIP
TAX MAP 65 - 1 - 17
ADJACENT PROPERTIES EXHIBIT**

Rec'd TO
ZBA 7/1/96

cc: Supo
ZBA members

DECISION - Orange County Cellular Telephone Corporation of Greensboro, North Carolina

ASK
J. Nugent
Copy of Wallkill
Planning Bd.
decision

WHEREAS, a Public Hearing was held by the Planning Board of the Town of Wallkill on January 3, 1996 to consider an application for site plan approval and a special use permit to construct and operate a 180 foot public utility communication tower with a related equipment storage shelter on a portion of a 3.7 acre parcel of land fronting on Orange County Rt. 53 near the intersection of O'Haire Road and Ferrara Road as shown on the tax map of the Town of Wallkill as Section 46, Block 1, Lot 76.1 in an M-I (Manufacturing-Industrial) zone, and

WHEREAS, all persons in interest were heard at the above time and place,

NOW THEREFORE, the Planning Board finds and determines after hearing all of the evidence and visiting the site, as follows:

The area in question consists primarily of single family homes in close proximity to the proposed site in a rural setting and the erection of a 180 foot tower in such location would obviously have an adverse effect on the character of the neighborhood as well as on the value of the single family homes in said area and would disrupt the pattern of the development of said area and would impair the general welfare of the residents in said vicinity and would not be in harmony with the surrounding properties. The Board finds no evidence of any compelling need to have the Tower erected at this site since there are numerous rural areas throughout the Town where said tower could be located without being in close proximity to residential units. Although

the evidence produced by the applicant with respect to the lack of danger from such towers was certainly persuasive and the evidence produced about property values along with the neighborhood comments on the tower site. The Board is not convinced that such tower would not have adverse effect on the adjacent residents. For all of the foregoing reasons, the present application is denied.

Feb 7, 1998
DATE

Bernard Levy
BERNARD LEVY, CHAIRMAN

AREA VARIANCE

ZBA to weigh benefit to applicant vs. detriment to health, safety and welfare of neighborhood or community. If granted, variance shall be the minimum necessary. The ZBA may impose conditions in granting any variance. The ZBA may also decide to deny the variance request.

In considering the variance request, the ZBA must consider five (5) factors:

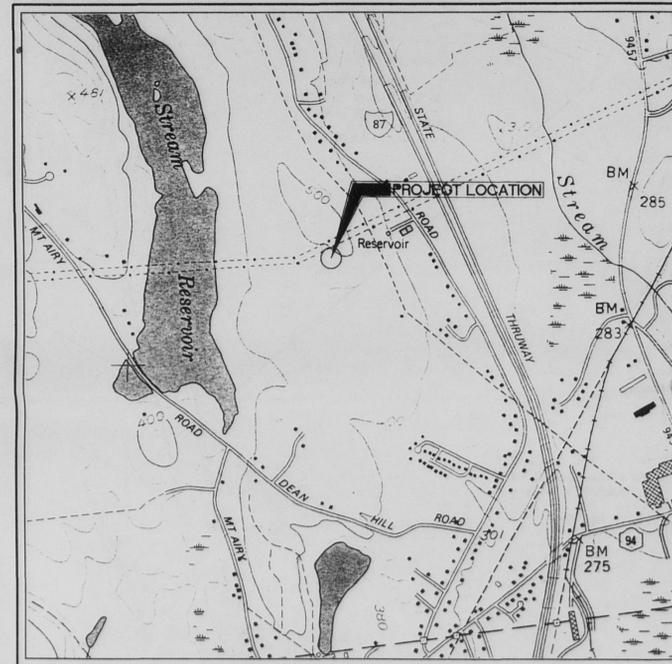
(1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

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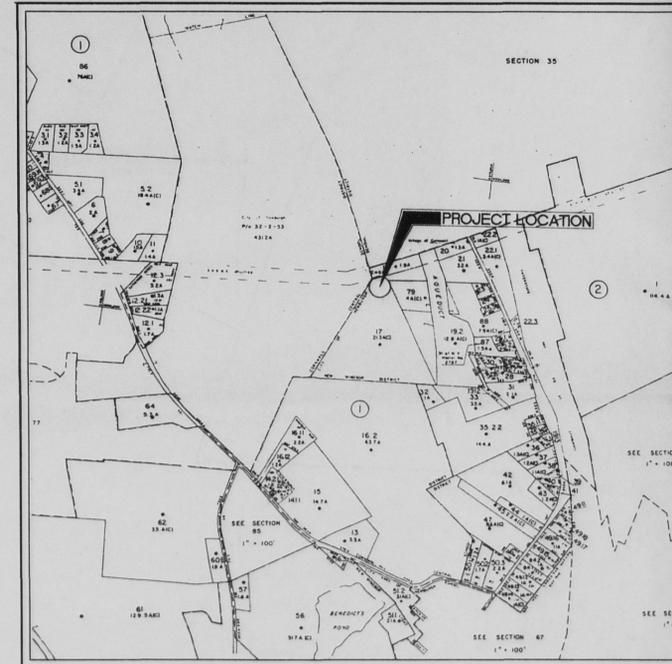
SPECIAL PERMIT DRAWINGS PUBLIC UTILITY COMMUNICATIONS FACILITY

LEGEND

EXISTING		PROPOSED
— x — x — x —	FENCE	— x — x — x —
— — — — —	UNDERGROUND ELECTRIC	— — — — —
— — — — —	UNDERGROUND TELEPHONE	— — — — —
— — — — —	OVERHEAD WIRES	— — — — —
— — — — —	OVERHEAD TELEPHONE	— — — — —
— — — — —	OVERHEAD ELECTRIC	— — — — —
— — — — —	5' OR 10' CONTOUR LINE	— — — — —
— — — — —	1' OR 2' CONTOUR LINE	— — — — —
— — — — —	SPOT ELEVATION	— — — — —
— — — — —	PRIMARY PROPERTY OR R.O.W.	— — — — —
— — — — —	PROPERTY LINE	— — — — —
— — — — —	EASEMENT	— — — — —
— — — — —	UTILITY POLE	— — — — —
— — — — —	LIGHT POLE, LAMP POST	— — — — —
— — — — —	SIGN	— — — — —
— — — — —	TELEPHONE PEDESTAL	— — — — —
— — — — —	IRON ROD, PIN, OR PIPE	— — — — —
— — — — —	CONCRETE MONUMENT	— — — — —
— — — — —	RIGHT-OF-WAY MONUMENT	— — — — —
— — — — —	TEST PIT	— — — — —
— — — — —	SOIL BORING	— — — — —
— — — — —	BUILDING	— — — — —



SITE LOCATION MAP <USGS MAPPING>
SCALE: 1" = 1000'



SITE LOCATION MAP <TAX MAP, SECTION #65>
NO SCALE

INDEX

- C-1 TITLE SHEET AND INDEX
- C-2 SITE DESCRIPTION DRAWING
- C-3 ENLARGED PARTIAL PLAN
- C-4 SITE DETAILS
- C-5 PERSPECTIVE

DEAN HILL ROAD TOWN OF NEW WINDSOR ORANGE COUNTY, NEW YORK

APPLICANT:

**ORANGE COUNTY POUGHKEEPSIE
MSA LIMITED PARTNERSHIP**

Bell Atlantic NYNEX Mobile, Inc.
46 Broadway
Menands, New York 12204
(518)-433-0185

APRIL 1996

CHA

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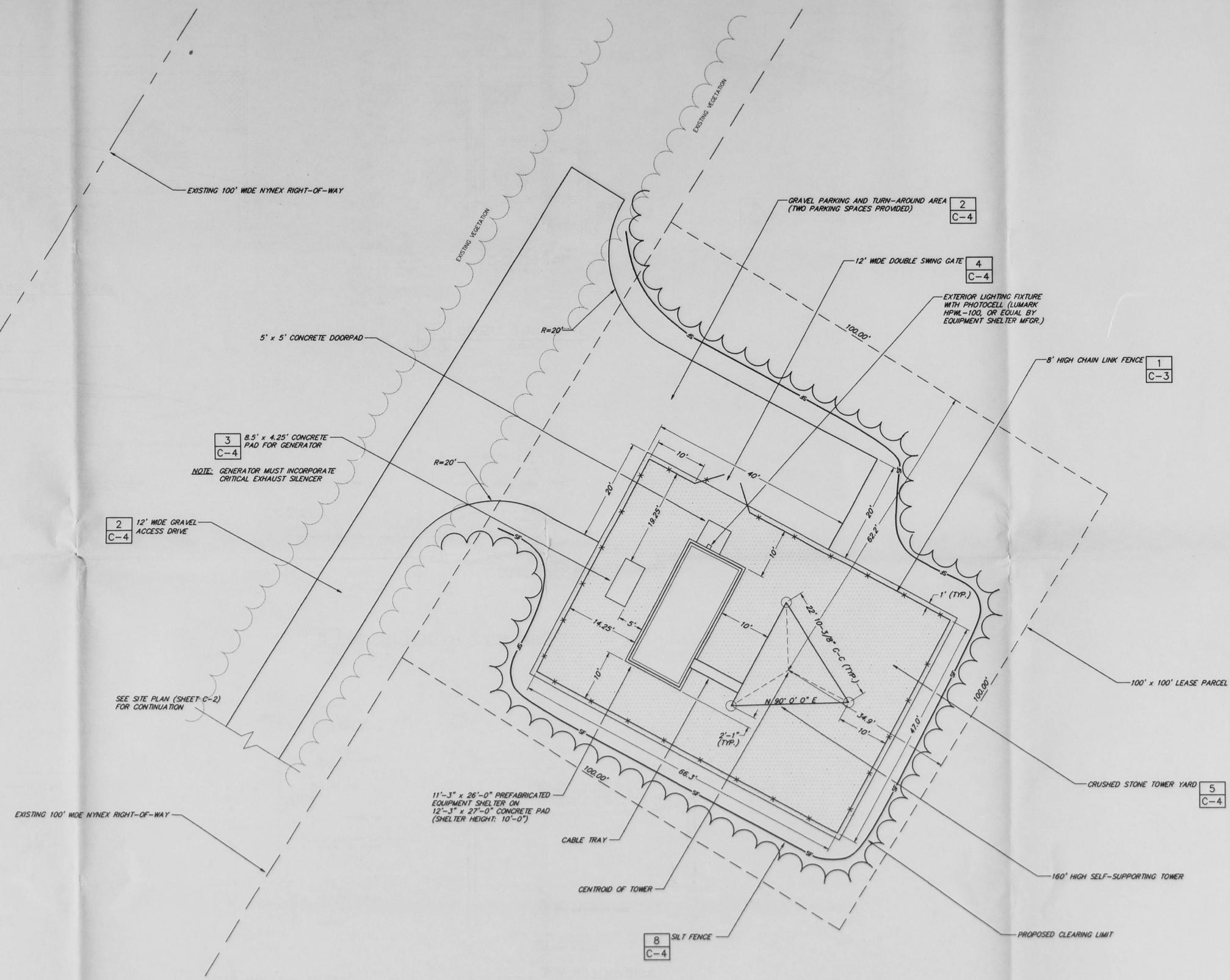
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CHA Project No. 4734.01.29
DATE: APRIL 1, 1996

C-1



1 ENLARGED PARTIAL PLAN
 SCALE: 1"=10'

Revisions:	Drawn By:	App'd. By:	Date:

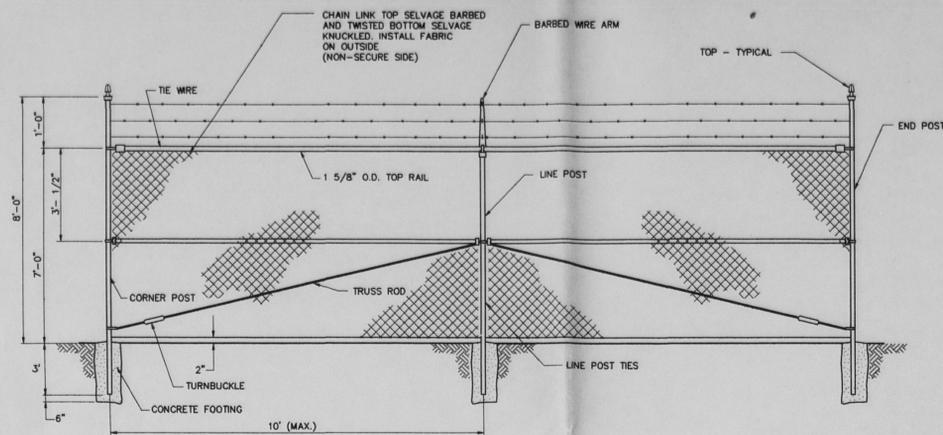
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 Date: 03/11/96
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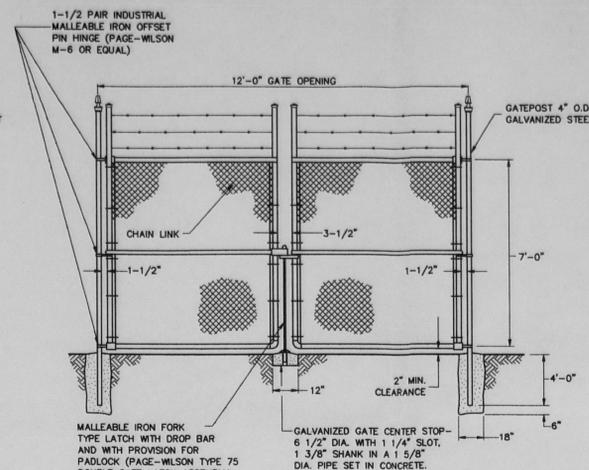
ORANGE COUNTY POUGHKEEPSIE MSA LIMITED PARTNERSHIP
Bell Atlantic NYNEX Mobile
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PUBLIC UTILITY COMMUNICATIONS FACILITY
 TOWN OF NEW WINDSOR ORANGE COUNTY
 NEW YORK
ENLARGED PARTIAL PLAN
 SCALE: 1"=10' DATE: APRIL 1, 1996

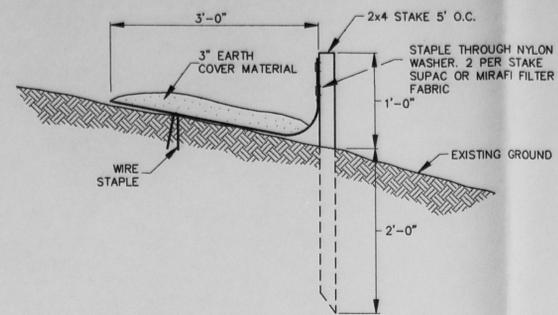
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 SHEET 3 OF 5



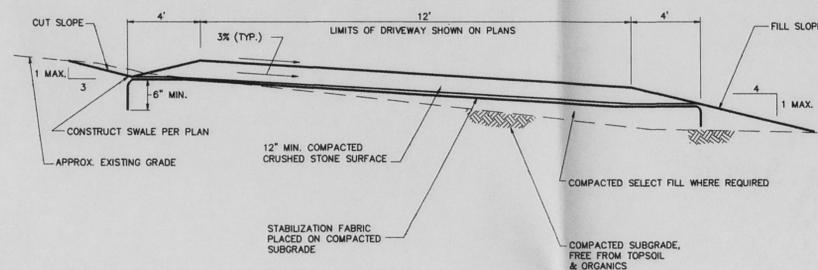
1 CHAIN LINK FENCE DETAIL
C-3 NO SCALE



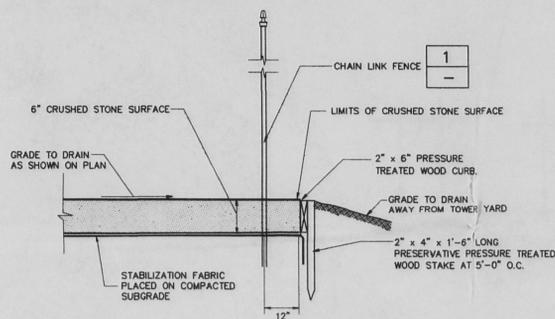
4 DOUBLE SWING GATE
C-3 NO SCALE



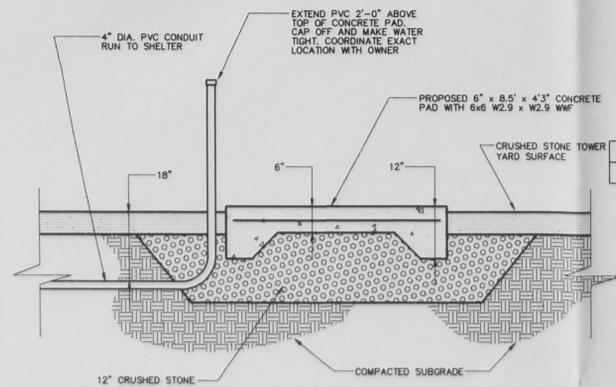
8 SILTATION FENCE DETAIL
C-3 NO SCALE



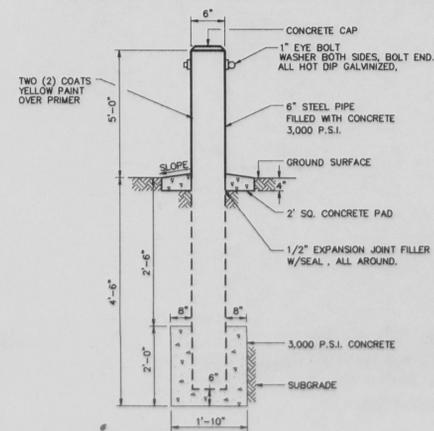
2 DRIVEWAY SECTION
C-2 NO SCALE



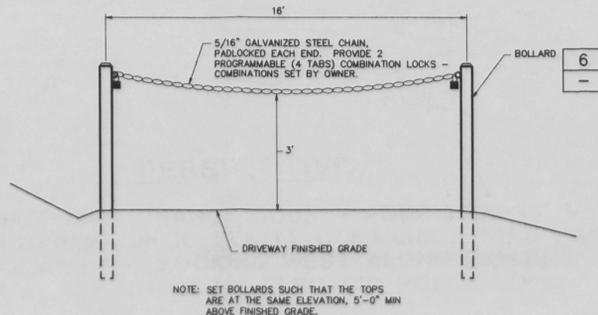
5 SECTION THROUGH TOWER YARD
C-3 NO SCALE



3 GENERATOR PAD DETAIL
C-3 NO SCALE



6 PIPE BOLLARD DETAIL
NO SCALE



7 DRIVEWAY BARRIER
C-2 NO SCALE

Revisions:	Drawn By:	App'd. By:	Date:

Designed By:	Date:
A.P.S.	03/11/96
Drawn By:	Date:
B.R.B.	03/11/96
Checked By:	Date:
A.P.S.	03/11/96

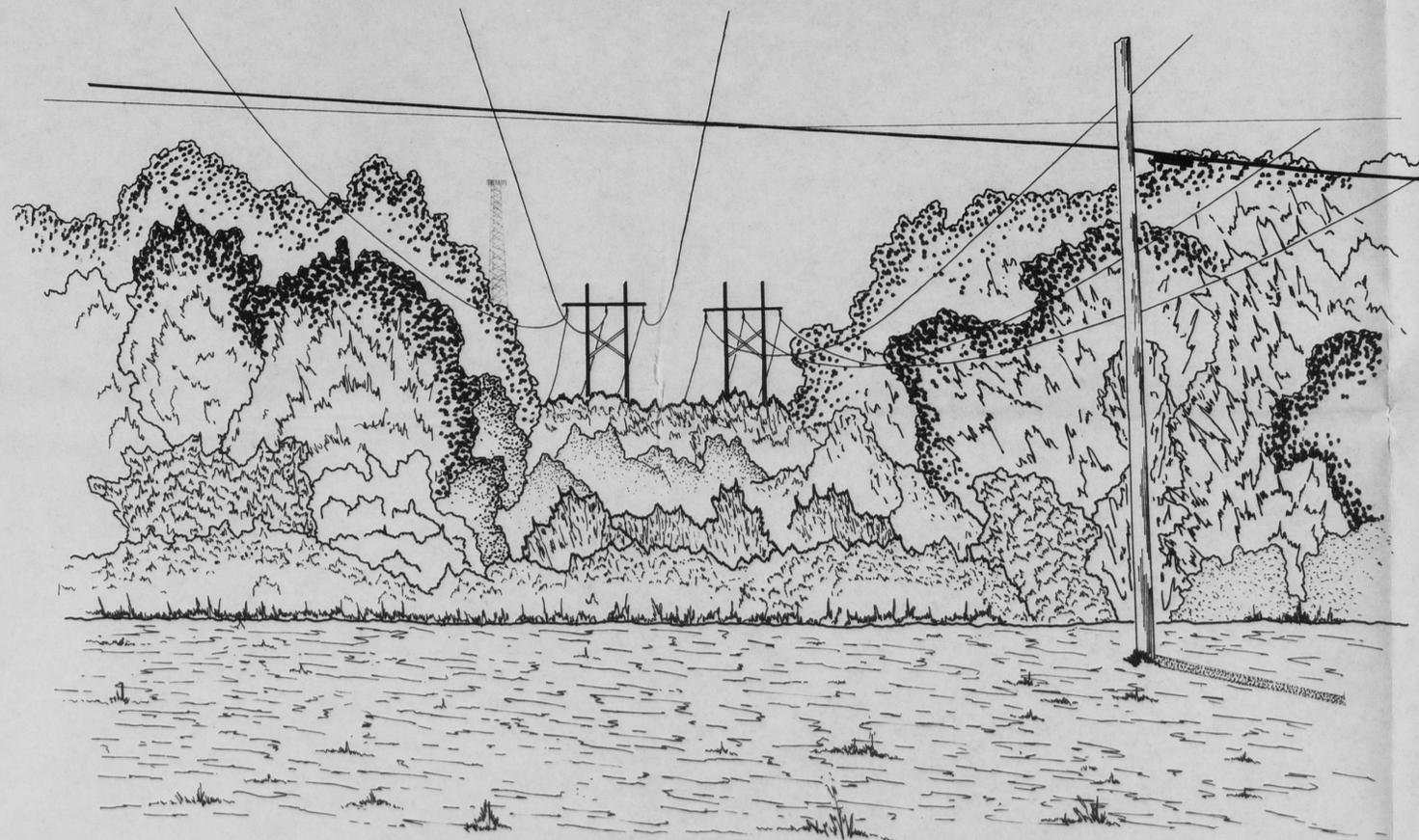
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Bell Atlantic NYNEX Mobile
46 BROADWAY - MENANDS, NEW YORK - 12204

PUBLIC UTILITY COMMUNICATIONS FACILITY
TOWN OF NEW WINDSOR ORANGE COUNTY
NEW YORK
SITE DETAILS
SCALE: AS NOTED DATE: APRIL 11, 1996

Drawing No. **C-4**
SHEET 4 OF 5



PERSPECTIVE

**VIEW OF PROPOSED ORANGE COUNTY POUGHKEEPSIE MSA
LIMITED PARTNERSHIP PUBLIC UTILITY COMMUNICATIONS FACILITY
FROM RILEY ROAD LOOKING WEST ALONG EXISTING
CENTRAL HUDSON GAS & ELECTRIC POWER LINES**

Revisions:	Drawn By:	App'd. By:	Date:

Designed By:	Date:
B.R.B.	8/31/95
Drawn By:	Date:
B.R.B.	8/31/95
Checked By:	Date:
A.P.S.	8/31/95

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PUBLIC UTILITY COMMUNICATIONS FACILITY
TOWN OF NEW WINDSOR ORANGE COUNTY
NEW YORK

PERSPECTIVE

SCALE: NONE

DATE: APRIL 1, 1996

Drawing No.

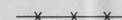
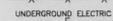
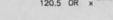
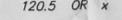
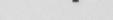
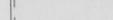
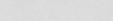
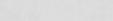
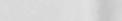
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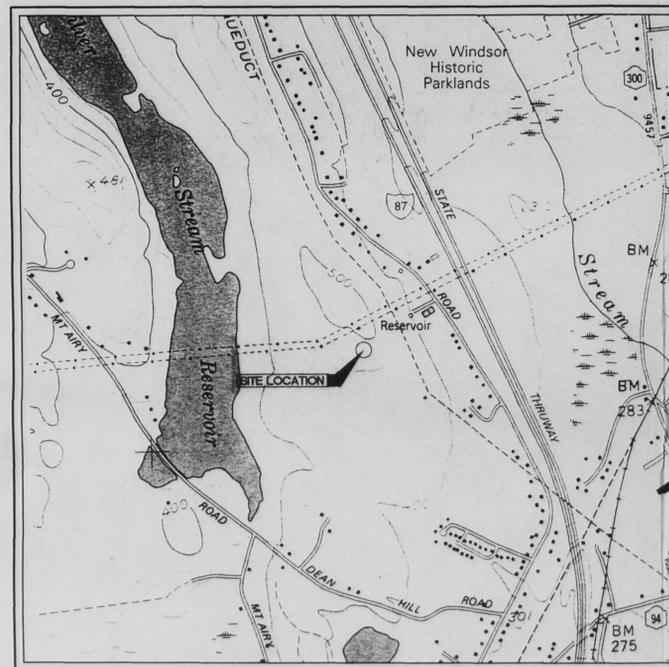
SHEET 5 OF 5

Bell Atlantic NYNEX Mobile

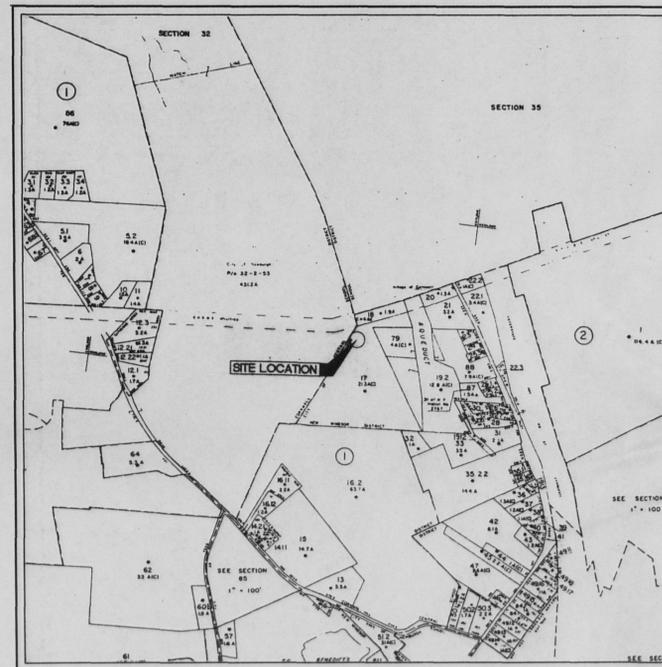
SPECIAL PERMIT DRAWINGS PUBLIC UTILITY COMMUNICATIONS FACILITY

LEGEND

EXISTING		PROPOSED
	FENCE	
	UNDERGROUND ELECTRIC	
	UNDERGROUND TELEPHONE	
	OVERHEAD WIRES	
	5' OR 10' CONTOUR LINE	
	1' OR 2' CONTOUR LINE	
	SPOT ELEVATION	
	PRIMARY PROPERTY OR R.O.W.	
	PROPERTY LINE	
	EASEMENT	
	UTILITY POLE	
	LIGHT POLE, LAMP POST	
	SIGN	
	TELEPHONE PEDESTAL	
	IRON ROD, PIN, OR PIPE	
	CONCRETE MONUMENT	
	RIGHT-OF-WAY MONUMENT	
	TEST PIT	
	SOIL BORING	
	BUILDING	



SITE LOCATION MAP <USGS MAPPING>
SCALE: 1" = 1000'



SITE LOCATION MAP <TAX MAP, SECTION #65>
NO SCALE

INDEX

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- C-2 SITE DESCRIPTION DRAWING
- C-3 ENLARGED PARTIAL PLAN
- C-4 SITE DETAILS
- C-5 PERSPECTIVE

DEAN HILL ROAD TOWN OF NEW WINDSOR ORANGE COUNTY, NEW YORK

APPLICANT:

**ORANGE COUNTY POUGHKEEPSIE
MSA LIMITED PARTNERSHIP**

Bell Atlantic NYNEX Mobile, Inc.
46 Broadway
Menands, New York 12204
(518)-433-0185

APRIL 1996

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CHA Project No. 4734.01.29
DATE: APRIL 1, 1996
REVISED: MAY 21, 1996

C-1

SITE STATISTICS:

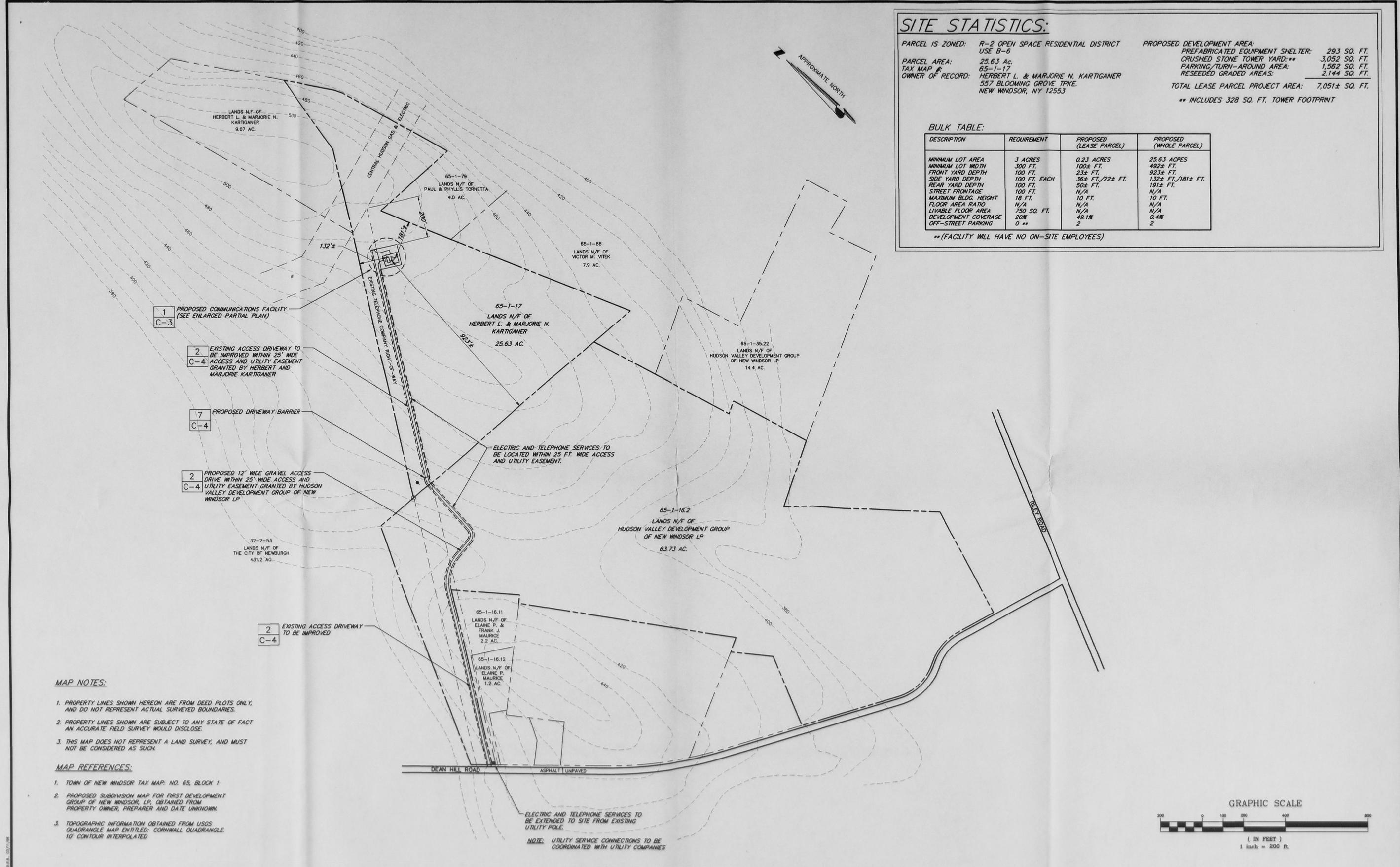
PARCEL IS ZONED: R-2 OPEN SPACE RESIDENTIAL DISTRICT USE B-6
 PARCEL AREA: 25.63 AC.
 TAX MAP #: 65-1-17
 OWNER OF RECORD: HERBERT L. & MARJORIE N. KARTIGANER
 557 BLOOMING GROVE TPKE.
 NEW WINDSOR, NY 12553

PROPOSED DEVELOPMENT AREA:
 PREFABRICATED EQUIPMENT SHELTER: 293 SQ. FT.
 CRUSHED STONE TOWER YARD:** 3,052 SQ. FT.
 PARKING/TURN-AROUND AREA: 1,562 SQ. FT.
 RESEDED GRADED AREAS: 2,144 SQ. FT.
 TOTAL LEASE PARCEL PROJECT AREA: 7,051± SQ. FT.
 ** INCLUDES 328 SQ. FT. TOWER FOOTPRINT

BULK TABLE:

DESCRIPTION	REQUIREMENT	PROPOSED (LEASE PARCEL)	PROPOSED (WHOLE PARCEL)
MINIMUM LOT AREA	3 ACRES	0.23 ACRES	25.63 ACRES
MINIMUM LOT WIDTH	300 FT.	100± FT.	492± FT.
FRONT YARD DEPTH	100 FT.	23± FT.	923± FT.
SIDE YARD DEPTH	100 FT. EACH	36± FT./22± FT.	132± FT./181± FT.
REAR YARD DEPTH	100 FT.	50± FT.	191± FT.
STREET FRONTAGE	100 FT.	N/A	N/A
MAXIMUM BLDG. HEIGHT	18 FT.	10 FT.	10 FT.
FLOOR AREA RATIO	N/A	N/A	N/A
LIVABLE FLOOR AREA	750 SQ. FT.	N/A	N/A
DEVELOPMENT COVERAGE	20%	49.1%	0.4%
OFF-STREET PARKING	0 **	2	2

** (FACILITY WILL HAVE NO ON-SITE EMPLOYEES)



MAP NOTES:

- PROPERTY LINES SHOWN HEREON ARE FROM DEED PLOTS ONLY, AND DO NOT REPRESENT ACTUAL SURVEYED BOUNDARIES.
- PROPERTY LINES SHOWN ARE SUBJECT TO ANY STATE OF FACT AN ACCURATE FIELD SURVEY WOULD DISCLOSE.
- THIS MAP DOES NOT REPRESENT A LAND SURVEY, AND MUST NOT BE CONSIDERED AS SUCH.

MAP REFERENCES:

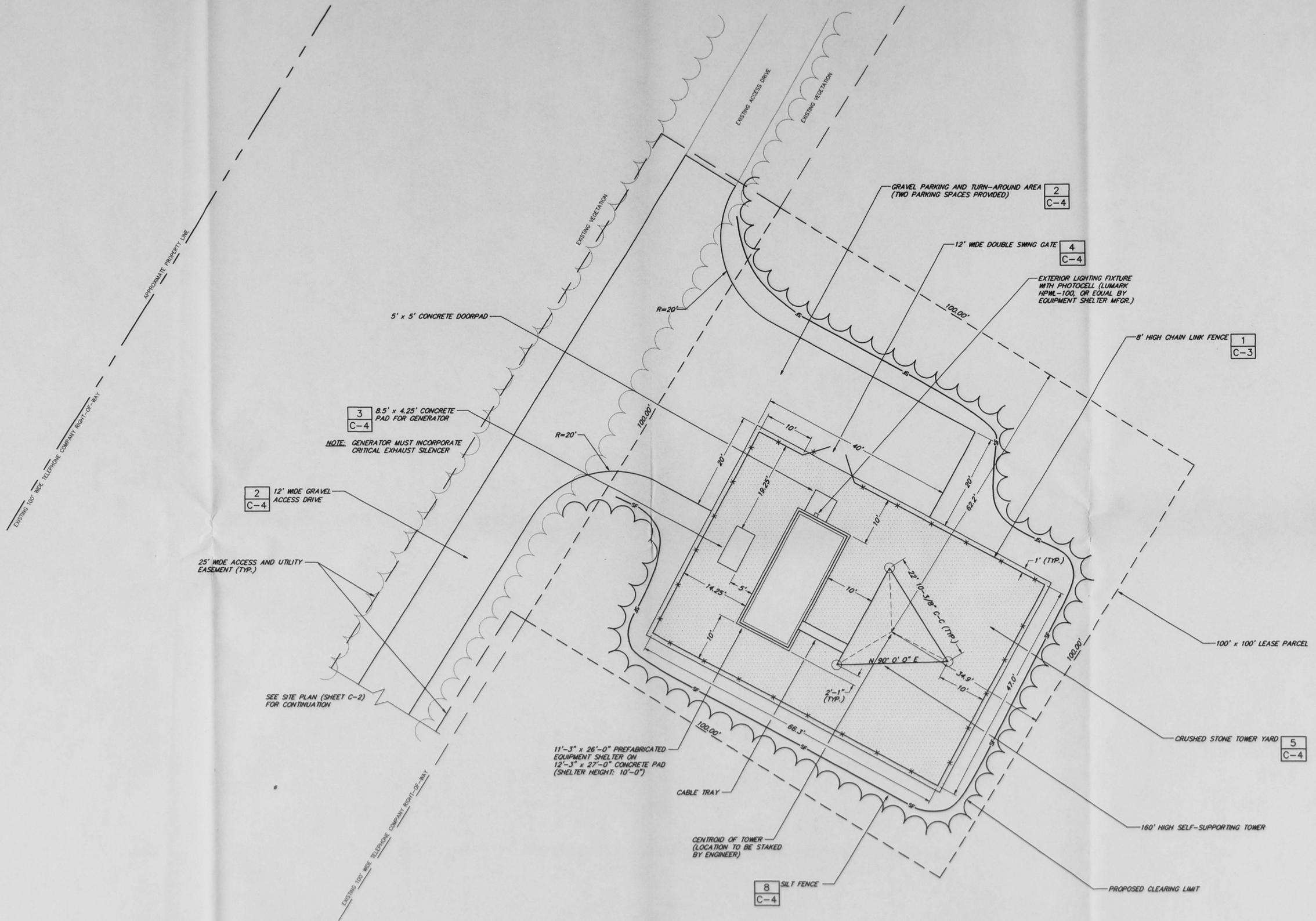
- TOWN OF NEW WINDSOR TAX MAP: NO. 65, BLOCK 1
- PROPOSED SUBDIVISION MAP FOR FIRST DEVELOPMENT GROUP OF NEW WINDSOR, LP, OBTAINED FROM PROPERTY OWNER, PREPARER AND DATE UNKNOWN.
- TOPOGRAPHIC INFORMATION OBTAINED FROM USGS QUADRANGLE MAP ENTITLED: CORNWALL QUADRANGLE 10' CONTOUR INTERPOLATED

ELECTRIC AND TELEPHONE SERVICES TO BE EXTENDED TO SITE FROM EXISTING UTILITY POLE.

NOTE: UTILITY SERVICE CONNECTIONS TO BE COORDINATED WITH UTILITY COMPANIES



<p>Revisions:</p> <table border="1"> <tr> <th>Rev.</th> <th>By</th> <th>Date</th> </tr> <tr> <td>1.</td> <td>CHANGES PER 4/17/96 PLANNING BOARD COMMENTS.</td> <td>5/21/96</td> </tr> </table>	Rev.	By	Date	1.	CHANGES PER 4/17/96 PLANNING BOARD COMMENTS.	5/21/96	<p>Drawn By: B.R.B. App'd. By: A.P.S. Date: 5/21/96</p>	<p>Designed By: A.P.S. Date: 03/11/96 Drawn By: B.R.B. Date: 03/11/96 Checked By: A.P.S. Date: 03/11/96</p>	<p>CHA CLOUGH, HARBOUR & ASSOCIATES LLP ENGINEERS, SURVEYORS, PLANNERS & LANDSCAPE ARCHITECTS III WINNERS CIRCLE - ALBANY, NEW YORK - 12205 P.O. BOX 5269 518-453-4500 CHA Project No. 4734.01.29</p>	<p>ORANGE COUNTY POUGHKEEPSIE MSA LIMITED PARTNERSHIP © Bell Atlantic NYNEX Mobile 46 BROADWAY - MENANDS, NEW YORK - 12204</p>	<p>PUBLIC UTILITY COMMUNICATIONS FACILITY TOWN OF NEW WINDSOR ORANGE COUNTY NEW YORK SITE DESCRIPTION DRAWING SCALE: 1"=200' DATE: APRIL 1, 1996</p>	<p>Drawing No. C-2 SHEET 2 OF 5</p>
Rev.	By	Date										
1.	CHANGES PER 4/17/96 PLANNING BOARD COMMENTS.	5/21/96										



1 ENLARGED PARTIAL PLAN
 C-2 SCALE: 1"=10'

Revisions:	Drawn By:	App'd. By:	Date:
1. CHANGES PER 4/17/96 PLANNING BOARD COMMENTS.	B.R.B.	A.P.S.	5/21/96

Designed By:	Date:
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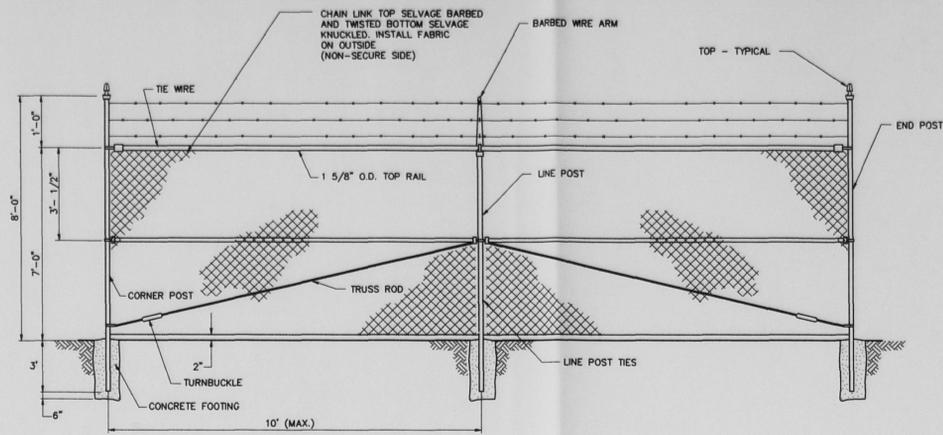
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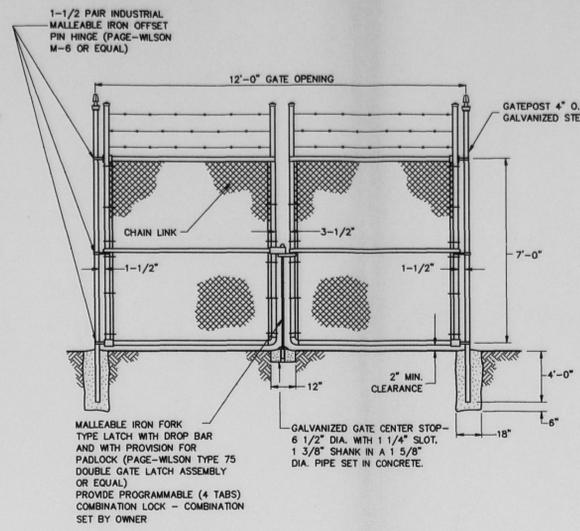
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Bell Atlantic NYNEX Mobile
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PUBLIC UTILITY COMMUNICATIONS FACILITY
 TOWN OF NEW WINDSOR ORANGE COUNTY
 NEW YORK
ENLARGED PARTIAL PLAN
 SCALE: 1"=10' DATE: APRIL 1, 1996

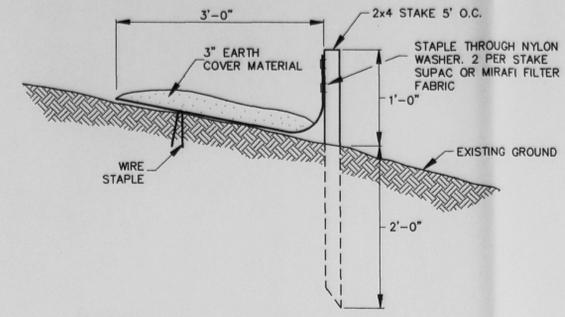
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 SHEET 3 OF 5



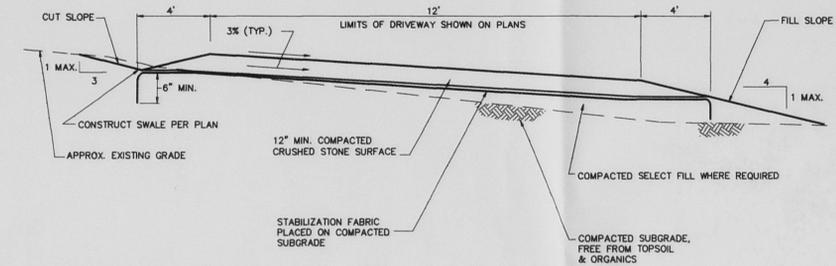
1 CHAIN LINK FENCE DETAIL
C-3 NO SCALE



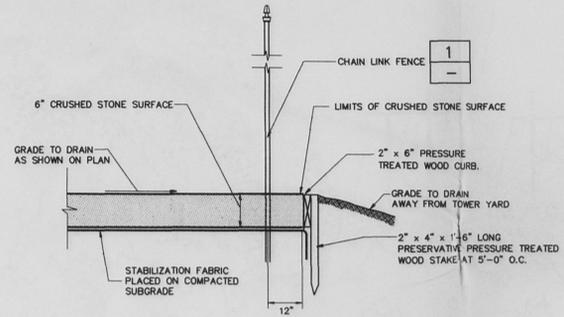
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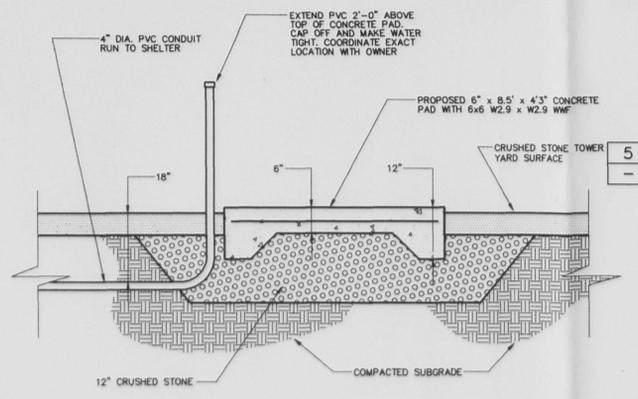
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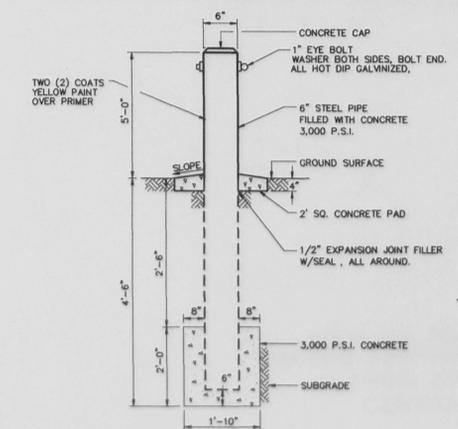
2 DRIVEWAY SECTION
C-2 NO SCALE



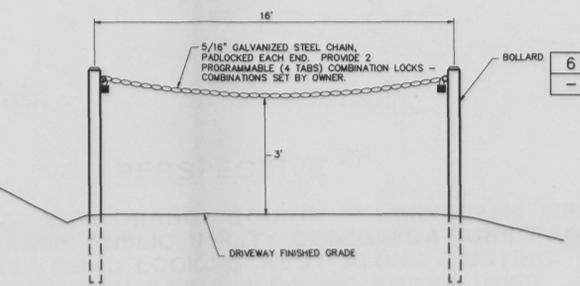
5 SECTION THROUGH TOWER YARD
C-3 NO SCALE



3 GENERATOR PAD DETAIL
C-3 NO SCALE



6 PIPE BOLLARD DETAIL
NO SCALE



7 DRIVEWAY BARRIER
C-2 NO SCALE

Revisions:	Drawn By:	App'd. By:	Date:

Designed By:	Date:
A.P.S.	03/11/96
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Checked By:	Date:
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PUBLIC UTILITY COMMUNICATIONS FACILITY
TOWN OF NEW WINDSOR ORANGE COUNTY NEW YORK
SITE DETAILS
SCALE: AS NOTED DATE: APRIL 1, 1996

Drawing No. **C-4**
SHEET 4 OF 5

