



BOARD OF DIRECTORS

Nancy Berner
Chair

James Cross
Vice Chair

Seamus Carroll
Treasurer

Rudolph Rauch III
Secretary

Douglas Banker

Jeffrey Bunzel

Gilman Burke

Tom Campanile

Christopher Davis

Irvine Flinn

Phoebe Geer

James Hartford

Laura Hromadka

Henry L. Kingsley

Daniel Kramer

Lars Kulleseid

Douglas Land

Claudio Marzollo

Frederick Osborn III

Robert Rhodes

Frederic Rich

William Schuster

Anne Sidamon-Eristoff

Bente Strong

Anne Symmes

Bonnie Turner

Glennon Watson

Lissa Young

HONORARY DIRECTORS

Anne Cabot

Bevis Longstreth

Ralph Odell

Katherine Roberts

Jean Wort

Cecil Wray

STAFF

Michelle Smith

Kathy Hamel

Jonathan Leitner

Katrina Shindledecker

Nicole Wooten

P.O. Box 226
20 Nazareth Way
Garrison, NY 10524

phone: 845.424.3358
fax: 845.424.3483

info@hhl.org
www.hhl.org

December 29, 2017

Village of Nelsonville Planning Board and Zoning Board of Appeals
258 Main Street
Nelsonville, NY 10516

Dear Chairman Rice, Chairman Marino and Members of the Planning Board and Zoning Board of Appeals:

RE: Homeland Towers, Inc. Proposed Cell Tower at 15 Rockledge Road

The Hudson Highlands Land Trust (HHLT) submits the following comments in relation to the siting of a large cell tower on Rockledge Road in Nelsonville.

The mission of HHLT is to *"protect and preserve the natural resources, scenic beauty and rural character of the Hudson Highlands"*. We believe a 110-foot cell tower in the shape of a "stealth monopine" will be detrimental to the scenic beauty and rural character of our area, and we encourage the Village to consider less visually intrusive means of improving cell coverage in our area.

We urge the Village to follow the example set by the Adirondack Park Agency (APA) in ensuring that any cell towers blend into the surrounding landscape and do not detract from the outstanding scenic beauty of our area. The APA's policy on telecommunications towers and other tall structures is attached as Exhibit A and, in particular, Section III B discusses the concept of **"Substantial Invisibility"**. We recommend the Village follow similar processes for the reasons outlined below.

The site at 15 Rockledge Road in Nelsonville is part of the Hudson Highlands Scenic Area of Statewide Significance. It is included in the HH-20 sub-unit, known as the Garrison Four Corners sub-unit. The Hudson River Valley Scenic Areas of Statewide Significance report, from the NY Department of State, says *"The subunit is recognized through the designation of NY Route 9D as a Scenic Road under Article 49 of the Environmental Conservation Law and through the inclusion of twenty structures and their estates on the State and National Registers of Historic Places, most as part of the Hudson Highlands Multiple Resource Area. The subunit is free from discordant features"*

New York's Coastal Management Program includes Policy 24, which provides for the designation and protection of Scenic Areas of Statewide Significance. This policy calls for agencies to determine if a proposed action would impair scenic quality.

The policy states that impairment of a landscape's scenic quality can occur *“through the addition of structures which reduce views or are discordant with the landscape because of their inappropriate scale, form, or construction materials.”*

Based on the viewshed and visual simulation materials submitted by the applicant and by Philipstown Cell Solutions, we believe the current proposal includes a structure that is discordant with the landscape because of inappropriate scale and form. Furthermore, we find the applicant’s scenic analysis lacking in terms of the important viewpoints that were not included, but where the Rockledge Road area is clearly visible. Examples include: many points along the Hudson River, key scenic areas in State Parks – both on Storm King Mountain and Mount Taurus trails heading up from Nelsonville, in Constitution Marsh, and various points along the designated Scenic Route 9D.

We are concerned that the current proposal would set a dangerous precedent in a rapidly evolving telecommunications environment that includes both:

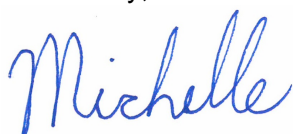
- The recent reversal of “Net Neutrality” by the FCC, and
- The simultaneous application for another new cell tower in Philipstown

It is not yet known if these events signal the start of an increasing number of cell tower applications in our area. The evidence presented by Philipstown Cell Solutions shows that such large cell towers are currently not present in Scenic Areas of Statewide Significance, other than those that pre-date the designation or to support national security institutions (e.g. West Point Military Academy).

The Hudson Highlands is an area of unique, unparalleled scenic beauty that drives both our tourism industry and our attractiveness as a place to live. This, in turn, creates the need for more cell and data coverage. However, the installation of such infrastructure cannot come at the cost of what makes the Hudson Highlands so special in the first place.

We urge you to reject the current application on the basis that it impairs our scenic resources. We encourage you to guide applicants towards structures that blend in with our scenery and consider the ways in which other agencies, such as the Adirondack Park Agency, have been able to ensure that communications infrastructure fits in with the surrounding landscape.

Sincerely,



Michelle Smith, Executive Director

Adirondack Park Agency Policy, Procedures & Guidance System	Agency- 4
Topic: Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park	
Richard H. Lefebvre, Chairman	Date: February 15, 2002

I. Purpose

The purpose of this policy is to provide guidance to the Agency, to telecommunications providers and others within the Adirondack Park regarding the Adirondack Park Agency's exercise of its powers and duties in light of the federal Telecommunications Act of 1996 and changing conditions within the Park. The policy specifically addresses telecommunications facilities covered by the federal law, that is, every type of wireless and radio emission device including cellular telephone, microwave, AM and FM radio and television. However, the guidance is also generally applicable to other tall structures subject to Agency regulatory review within the Adirondack Park.

This policy is intended to protect Adirondack Park aesthetic, open space, and other resources and, at the same time, provide guidance for a telecommunication system consistent with federal law. The natural scenic character and beauty of the Adirondack Park is the foundation of the quality of life and economy of the region, long recognized as a uniquely special and valuable State and National treasure. The policy must take into account the Park setting and serve the needs of Adirondack Park residents and visitors. The policy recognizes the potential compatibility of a system for personal communication signals (cellular telephone, PCS, wireless digital communications) in already developed areas and segments of streets and roadways where there is access to the existing electric and telephone infrastructure required for these facilities and where substantial invisibility can be achieved.

II. Background

A. General

The Adirondack Park Agency administers the Adirondack Park Agency Act, the New York State Freshwater Wetlands Act and, for private lands, the New York State Wild, Scenic and Recreational Rivers Act within the six-million acre Adirondack Park. The Adirondack Park Land Use and Development Plan recognizes the complementary needs of all the people of the State for the preservation of the Park's resources and open space character and of the Park's permanent, seasonal and transient populations for growth and service areas, employment, and a strong economic base.

The Agency also administers the Adirondack Park State Land Master Plan which sets forth

guidelines and criteria for the use of State-owned lands within the Adirondack Park. These lands include the Adirondack Forest Preserve, protected as “forever wild” by Article XIV of the New York State Constitution since 1895.

Among the Agency’s duties and powers is the review of proposals for virtually all new telecommunication facilities as “major public utilities.” This review responsibility also includes all structures over 40 feet in height. Under the Adirondack Park Agency Act, the Agency must determine that each proposed telecommunication or other facility requiring Agency regulatory approval is:

- “consistent with the [Adirondack Park] land use and development plan;”
- “compatible with the character description and purposes, policies and objectives of the land use area wherein it is proposed to be located;”
- “consistent with the overall intensity guideline for the land use area involved;”
- consistent with the shoreline restrictions, if applicable; and
- “The project will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project. In making this determination, . . . the agency shall consider those factors contained in the development considerations of the plan which are pertinent to the project under review.”

See Adirondack Park Agency Act, NYS Executive Law, Article 27, Section 809(10)

In wetlands and rivers areas, additional findings will be required.

The 1996 amendments to the federal Telecommunications Act require, as a matter of federal law, that the Agency administer its regulatory responsibilities without discrimination among providers, in a manner that does not result in a prohibition of service, and in compliance with federally mandated radio emission effects standards. Federal law recognizes protected areas like public parkland, freshwater wetlands, formally designated wilderness, the Adirondack Forest Preserve and other special characteristics of the Adirondack Park, whose values are articulated and protected in the planning and regulatory process administered by the Agency.

B. Current Trends

In light of these responsibilities the Agency adopted a Policy on the location of new towers in 1978. That policy discouraged mountain top structures and encouraged co-location of facilities. Recognizing the changing technology utilized by the telecommunications industry, and the demands of government services and public safety factors, the Agency determined in August of 2000 that the 1978 policy should be updated because:

- current technology provides cellular telephone service through many small-scale facilities interconnected to land telephone lines and electric power;
- governmental emergency communications are being converted to digital technology which will require new facilities to provide services to meet needs for public health, safety and welfare; and
- the policy should be re-evaluated in light of the 1996 federal Telecommunications Act, which acknowledges State and local authority to evaluate specific locations and designs.

The changing technology will result in requests for the construction of new towers for improved telecommunications systems. When considering the mountainous terrain of the Adirondack Park, there is a potential for requests for multiple facilities to improve coverage over time. Anticipated requests for more towers and the concerns over the effectiveness of the current policy to provide meaningful guidance in the development of the system authorized by federal law lead to this policy update.

III. Policy on Telecommunications Towers

A. General Policy

New telecommunications towers located within the Adirondack Park will be located to avoid undue adverse impacts in such a manner as to be substantially invisible and in the vicinity of existing settlements or those portions of highway corridors where existing telephone and electric power is accessible to the proposed facility. Facilities must also be designed and sited to avoid or minimize impact to nearby land uses. Co-location of facilities is preferred so long as substantial invisibility is achieved. Governmental emergency telecommunication towers will be handled in the same manner, with consideration given to the health and safety needs of the public.

Private, commercial telecommunication towers and facilities will not be located within the constitutionally protected Adirondack Forest Preserve. Governmental emergency telecommunications facilities located on State land must, in those very limited circumstances where they are allowed, be consistent with the Adirondack Park State Land Master Plan.

New tower proposals will be presented with supporting information regarding the proposed facility location, alternative support infrastructure, designs and locations and future facility plans, adequate to determine whether the cumulative impacts of the proposed towers will result in undue adverse impacts on the Adirondack Park. Applicants will be required to provide the best available data and visual representations in order to maximize Agency and public understanding of the proposed project.

B. Substantial Invisibility

A “substantially invisible” communication facility and its appurtenant support facilities and access road(s) will not be readily apparent as to size, composition, or color and the structure(s) will, to the maximum extent practicable, blend with the background vegetation, other structures or other landscape features as seen from all significant potential public

viewing points and as documented by simulation and other visual analysis methods. Potential public viewing points include public roads, navigable waters and other public places. Substantial invisibility is intended to be applied on a site specific basis and may be achieved by consolidation of existing visual intrusions and/or by the development of facilities within lawfully existing buildings, and/or by providing substantial screening or concealment of the structure itself.

Substantial invisibility is considerably different in developed areas with the less restrictive Hamlet land use area classification when compared to areas classified Rural Use and Resource Management in light of the differing statutory purposes and policies for these areas set forth in the Land Use and Development Plan. To further the purposes of substantial invisibility, implementation of this policy recognizes the potential compatibility of the construction of communication facilities in areas with less restrictive land use classifications in an effort to preserve the open space character of the Park as called for in the Section 805 purposes, policies and objectives for all differing land use areas.

Preferred methods to reduce visibility include: avoiding locating facilities on mountain tops and ridge lines; concealing any structure by careful siting, using a topographic or vegetative foreground or backdrop; minimizing structure height and bulk; using color to blend with surroundings; using existing buildings to locate facilities whenever possible; using architecturally compatible buildings to house ground equipment; and otherwise using best available technology that avoids or minimizes visual impacts.

When none of the above preferred methods achieve substantial invisibility, camouflage in scale with the surroundings may be proposed in order to blend the facility with the visual setting.

C. Consolidation of Visual Intrusion

Consolidation of visual intrusions occurs when equipment is co-located on a single existing tower or on a new tower immediately adjacent to a lawful pre-existing facility.

Consolidation of visual intrusions also occurs when telecommunication equipment is attached to other pre-existing tall structures, such as utility poles, water tanks, or buildings. In developed areas existing buildings, overhead utility poles and similar structures may host telecommunication equipment and achieve substantial invisibility even when the telecommunication device is in plain view juxtaposed to the existing structure. This policy is intended to maintain the visual quality and character of the site and to avoid undue adverse impacts to scenic vistas, locally important viewsheds, and historic resources. It should be noted that there is an indefinite threshold where the consolidation of visual intrusions becomes overbearing and considered clutter with resulting undue adverse impacts on the Adirondack Park. As part of the alternatives analysis required of the applicant, methods of avoiding or reducing clutter in a viewshed through consolidation at a site with more than one tower or multiple sets of equipment on a single tower will be necessary as part of the Agency review and permitting process.

D. Emergency Communication Facilities

The Agency recognizes that the demands of public health, safety and welfare will involve the upgrade of governmental emergency communications facilities. This policy recognizes that such factors should be taken into consideration along with the other policy guidelines contained herein.

E. Obsolescence and Abandonment

This policy is intended to require removal of obsolete or abandoned telecommunication facilities. A plan for timely removal of any related telecommunications structures which become obsolete or are abandoned will be required as an element of any proposal for a new facility. The Agency may require guarantees to assure removal and/or restoration of the site.

F. Local Government Regulations

Local Governments share authority over land uses, including telecommunications towers, with the Agency and consistent local regulations will be considered a supplement to this policy.

IV. Legal Effect

This policy is not intended to set forth a fixed general principle to be rigidly applied. Rather, its tenets are to be utilized solely as guidance and should be applied only after taking into account the specific facts and circumstances set out in the application and project review record for each proposed telecommunications tower.

V. Adoption

The Adirondack Park Agency has reviewed and adopted this policy effective February 15, 2002.

By _____
Richard H. Lefebvre, Chairman

Date