Putnam County Legislature

40 Gleneida Avenue

Carmel, NY 10512

August 1, 2016

Dear Legislators,

We are writing to express our objections to the proposed cell tower on the old Mahopac Airport property.

First, this is clearly a Type I action under the SEQR regulations. Per the list of Type I actions found in the SEQR Handbook, Section 617.4:

“(7) any structure exceeding 100 feet above original ground level in a locality without any zoning regulation pertaining to height;

(9) any Unlisted action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register, or that is listed on the State Register of Historic Places (The National Register of Historic Places is established by 36 *Code of Federal Regulations*[CFR] parts 60 and 63, 1994 [see section 617.17 of this Part]);

(10) any Unlisted action, that exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 CFR part 62, 1994 (see section 617.17 of this Part).”

As to #7 above, the proposed cell tower will be 160 feet in height, thus triggering this as a Type I action.

As to #9 above, the proposed cell tower is substantially contiguous to the historic Hill-Agor Farm site. In addition, there are two archaeological sites registered with the State Historic Preservation Office, one historic and the other prehistoric, within close proximity to the proposed cell tower.

The County and Homeland Towers have incorrectly assumed that this is not a Type I action. Therefore, the Short Form Environmental Assessment Form is not the appropriate review document for this type of project, and a Full Environmental Assessment Form is required per SEQR regulations.

In addition, this is a change of use for the existing parkland designation of the former Mahopac Airport site. This requires that the County must follow the Alienation and Conversion process as outlined by New York State. As per the Handbook on Alienation and Conversion, page 11:

“The following have been determined by the courts to be alienations:

• The conveyance, sale, or lease of municipal parkland or recreational facilities to another public or private entity, such as an adjoining property owner, a developer, or a school district, which results in the facility no longer being used for public park and recreation purposes. As discussed earlier, the courts have determined that the conveyance or lease of even a small portion of a park is an alienation. For this reason, leases of parkland for cellular towers require legislative authorization.

• The lease of municipal park or recreational facilities, especially one to a private profit-making concern, even though the resource may continue to be used for public park and recreational purposes.”

The proposed cell tower clearly requires that the Alienation and Conversion process be followed. This process requires that:

1. Explore other options to avoid using parkland;
2. Involve the public;
3. Notify the New York State Office of Parks, Recreation and Historic Preservation;
4. Determine if State or Federal funding has been allocated to the park;
5. Complete the Parkland Alienation Municipal Information Form;
6. Contact the local State legislative sponsor;
7. Draft legislation with the help of the legislative sponsor and the State Parks Counsel’s Office. This includes the designation of substitute parklands and fair market value, a maximum lease period of 25 years, restoration of the land if the cell tower is no longer needed, including complete removal of the tower, restoring the land surface, etc.;
8. Conduct a review pursuant to the State Environmental Quality Review Act;
9. Pass a Municipal Home Rule Request.

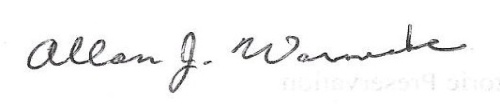
The SEQR process also requires the designation of a Lead Agency. Currently the lead agency for the former Mahopac Airport property is the Town of Carmel Town Board. The County Legislature is proposing to assign this role to itself. This requires following the process for the assignment of the County Legislature as Lead Agency.

There is also the issue of segmentation, as the County and Homeland Towers has only addressed the former Mahopac Airport portion of the overall MacGregor property, which also includes the historic Hill-Agor farm and the Putnam National Golf Course. Since the farm and the golf course may be impacted by the proposed cell tower project, the potential environmental impacts to the entire property must be addressed in the SEQR review.

The proposed project will clearly have negative impacts upon the aesthetics of the neighborhood, and the character of the area. It will have a substantial impairment of the community’s character, adverse changes to the environment, possible hazards to human health, a substantial change in the use of the land, and will create a conflict with community goals. It will lower local property values, and impacting assessments throughout the area.

In summary, if the County is intent on initiating this project, it must classify this as a Type I action per the SEQR Act, requiring the Full Environmental Assessment Form, review the “whole action”, and identify all relevant impacts. The County must also follow the Alienation and Conversion process as described earlier, as any proposal to place a cell tower on existing parkland automatically requires that this process be followed.

Thank you for your consideration.

Allan J. Warnecke Tom Maxson

Former Putnam County Historian Highlands Historic Preservation

Former Town of Carmel Historian