Ruth L. Pierpont

Deputy Commissioner for Historic Preservation

NYS Office of Parks, Recreation, and Historic Preservation

P.O. Box 189

Waterford, New York 12188-0189

July 31, 2017

Dear Deputy Commissioner Pierpont,

We are writing to express our objections to the proposed cell tower to be located directly on the historic Hill-Agor farm site in Mahopac Falls, Putnam County, NY. The project has been incorrectly entitled “Mahopac Airport Tower Location” (as it is not located on the old airport property), and has been assigned NY SHPO Project Review Number 16PR05174.

First, the proposed resolution put forward by the Putnam County Legislature (attached) failed to properly identify this project as a Type I action. 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 automatically triggering this as a Type I action, and the requirement for a Full Environmental Assessment Form.

As to #9 above, the proposed cell tower is located on 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 very close proximity to the proposed cell tower. The archaeological survey conducted by CBRE is woefully inadequate, and focused on an area where substantial ground disturbance has previously occurred. They failed to adequately cite the two existing archaeological sites, and the prior testing of those sites, conducted by archaeologists Eugene Boesch and LBA.

CBRE also incorrectly stated that there are “no structures located within or adjacent to the project area”. The historic Hill-Agor farm house, ca. 1843, **is located directly adjacent to the project area.** Their map of the proposed project (attached) shows this structure adjacent to the project area, but the barn was not properly labeled. On yet another map they submitted within the archaeological review, they fail to even label the historic Hill-Agor farm house (attached).

CBRE also ignored the fact that the Hill-Agor site has been declared eligible for the National Register of Historic Places. There is no reference to the 23-acre site, and the clear encroachments on that site from this proposed project that is located directly on the historic site, in their report or identified on their maps.

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 historic Hill-Agor 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:

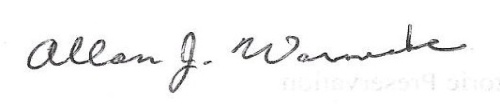
1. Explore other options to avoid using parkland;
2. Involve the public;
3. Notify the New York State Office of Parks, Recreation and Historic Preservation;
4. Determine if State or Federal funding has been allocated to the park;
5. Complete the Parkland Alienation Municipal Information Form;
6. Contact 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 proposed project will clearly have negative impacts upon the aesthetics of the historic site, the nearby residential neighborhood, and the character of the area. It will require a great deal of construction to install the needed infrastructure the tower will need for power and communications, with the overhead or underground wiring negatively impacting the historic site. It will lead to 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 impact property assessments throughout the area, at a time when those residents are suffering from a recent revaluation throughout the town.

In summary, if the County is intent on initiating this project, it must classify it as a Type I action, conduct a Full Environmental Assessment Form, and fully identify all relevant impacts to the historic Hill-Agor farm site. 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.

We are also requesting that NYS OPRHP withhold any approvals until the impacts on the historic site, including the two registered historic and prehistoric archaeological sites, are fully evaluated and mitigated.

Thank you for your consideration.

Allan J. Warnecke Tom Maxson

Former Putnam County Historian Highlands Historic Preservation

Former Town of Carmel Historian

Attachments

cc: Putnam County Legislature

John Bonafide, NYS OPRHP

Philip Perazio, NYS OPRHP

William Krattinger, NYS OPRHP

Charles Vandrei, NYS DEC

Crystal Akwada, NYSDA