

TOWN OF ORANGETOWN PLANNING BOARD
Meeting of Wednesday, March 22, 2023

MEMBERS PRESENT:

Michael Mandel, Vice Chairman
Andrew Andrews Kevin Farry
Michael McCrory Lisa DeFeciani
Denise Lenihan Tara Heidger, (alternate member)

MEMBER ABSENT: Thomas Warren, Chairman,

ALSO, PRESENT: Jane Slavin, Director, Office of Building, Zoning, Planning Administration and Enforcement, Rick Pakola, Deputy Town Attorney; Ann Marie Ambrose, Stenographer, and Katlyn Bettmann, Clerk Typist

Michael Mandel, Vice Chairman called the meeting to order at 7:30 p.m.
Mr. Mandel read the agenda. Hearings as listed on this meeting's agenda which are made a part of these minutes were held as noted below:

11 Tweed Boulevard Site Plan		PB #23-15
Critical Environmental Area	Final Site Plan	
Final Site Plan Review	Approval Subject	
11 Tweed Blvd, Upper Grandview	to Conditions	
71.09/1/52; R-22 zoning district		

SMK Green Subdivision		PB #23-16
Release of Escrow	Recommendation	
318 Western Highway, Tappan	to Release Escrow	
74.18/2/34; R-15 zoning district	Account	

Dish Wireless Facility Co-Location at		PB #23-17
Existing Base Station Rooftop Plan	Final Approval Subject	
Prepreliminary/Preliminary/Final Plan,	to Conditions	
Special Permit and SEQRA Review	Neg. Dec.	
1-4 Salisbury Point, South Nyack		
66.78/1/27; SN-HRA zoning district		

Continued Items:

125 South Greenbush Road Site Plan		PB #19-17
Prepreliminary/Preliminary Site Plan	Continued: Motion made	
and SEQRA Review	to Retain AKRF as Planner	
125 South Greenbush Road, Orangeburg		
74.07/1/15.1; LI zoning district		

155 South Greenbush Road Properties Site Plan		PB #19-18
Prepreliminary/Preliminary Site Plan	Continued: Motion made	
and SEQRA Review	to Retain AKRF as Planner	
155 South Greenbush Road, Orangeburg		
74.07/1/15.2; LI zoning district		

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2023 APR 28 P 3:11
TOWN CLERK'S OFFICE

MARCH 22, 2023 Planning Board Meeting

The decisions of the March 8, 2023 Planning Board Meeting were reviewed, edited, and approved. The motion for adoption was made and moved by Kevin Farry and seconded by Andrew Andrews and carried as follows: Thomas Warren, Chairman, absent; Michael Mandel, Vice Chairman, aye; Michael McCrory, aye; Andrew Andrews, aye; Denise Lenihan, aye; Kevin Farry, aye; Tara Heidger, (alternate member), abstain; and Lisa DeFeciani, aye.

Since there was no further business to come before the Board, a motion to adjourn the meeting was made by Kevin Farry and seconded by Andrew Andrews and agreed to by all in attendance. The meeting was adjourned at 11:30 p.m. The next Planning Board meeting is scheduled for April 12, 2023.

Dated: March 22, 2023

Cheryl Coopersmith

Town of Orangetown Planning Board



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**PB #23-15: 11 Tweed Boulevard Site Plan
Critical Environmental Area
Final Site Plan Approval Subject to Conditions**

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**TO: Nikos Lykokos 342 Riverdale Drive, Fort Lee, New Jersey 07024
FROM: Orangetown Planning Board**

RE: 11 Tweed Boulevard Site Plan – Critical Environmental Area: The application of Nikos Lykokos, owner, for Final Site Plan at a site to be known as “11 Tweed Boulevard Site Plan”, in accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the Town of Orangetown, Chapter 21A of the Code of the Town of Orangetown. The site is located at 11 Tweed Boulevard, Nyack, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section; 71.09, Block 1, Lot 52 in the R-22 zoning district.

Heard by the Planning Board of the Town of Orangetown at a meeting held **March 22, 2023** at which time the Board made the following determinations:

Jorel Vacarro appeared and testified before the Board.

The Board received the following communications:

1. Project Review Committee Report dated March 8, 2023.
2. An interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, from Jane Slavin, Director, Deputy Building Inspector dated March 14, 2023
3. An interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E. dated March 17, 2023.
4. A letter from Brooker Engineering, signed by Kenneth DeGennaro, P.E., dated March 21, 2023.
5. Letters from Rockland County Department of Planning, signed by Douglas Schuetz, Acting Commissioner of Planning dated March 3, 2023 and Jake Palant, dated February 15, 2023.
6. Letters from Rockland County Department of Health, signed by Elizabeth Mello, P.E., Senior Public Health Engineer dated March 3, 2023.
7. Letter from the Rockland County Department of Highways, signed by Dyan Rajasingham, Engineer II dated February 27, 2023.
8. An Email from Orange and Rockland Utilities, dated February 9, 2023, from Alfred Gaddi, PE..
9. Building Permit Referral to the Planning Board dated July 30, 2019 prepared by Rick Oliver, Building Inspector.
10. Site Plan prepared by Krypton Engineering dated March 14, 2023.
11. Copies of the following prior decisions: ACABOR #22-16, Approved with Conditions, dated April 7, 2022; ZBA #21-91, Granted, dated January 19, 2022 and PB #21-16, Preliminary Site Plan Approval Subject to Conditions, dated July 28, 2021.

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The Board reviewed the plans. The hearing was then opened to the Public.

A motion was made to open the Public Hearing portion of the meeting by Michael McCorry and second by Denise Lenihan and carried as follows: Thomas Warren – Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Kevin Farry, aye; Michael McCorry, aye; Lisa DeFeciani, aye; Tara Heidger, (alternate member), aye; and Andrew Andrews, aye.

Public Comment:

Vanessa Lapins, 659 Western Highway, Blauvelt, recommended types of native plantings that the applicant may use on the site.

There being no one else to be heard from the Public, a motion was made by Andrew Andrews and seconded by Denise Lenihan and carried as follows: Thomas Warren – Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice-Chairman, aye; Kevin Farry, aye; Michael McCorry, aye; Lisa DeFeciani, aye; Tara Heidger, (alternate member), aye; and Andrew Andrews, aye.

Reaffirmation of SEQRA

Pursuant to New York Code, Rules & Regulations (NYCRR) Section 617.7, the Town of Orangetown Planning Board, as lead agency, for the reasons articulated in this Board's analysis of all of the submissions by the applicant, interested agencies, departments and the public, with respect to this project including the Environmental Assessment Form, which reasons are summarized in the motion, hereby determines that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared.

After having identified the relevant areas of environmental concern, namely drainage, surface water runoff, land clearing, vegetation, fauna, traffic and noise levels, and after having taken a hard look at said environmental issues, and after having deliberated regarding such concerns, and having heard from the applicant, and the applicant's consultant and having heard from the following offices, officials and/or Departments: (Town of Orangetown): Office of Building, Zoning, Planning Administration and Enforcement and Department of Environmental Management and Engineering; and having heard from the following involved and interested agencies: Town of Orangetown Zoning Board of Appeals, Rockland County Department of Planning, Rockland County Department of Highways, Rockland County Department of Health, Rockland County Sewer District #1, and having reviewed the drawings presented by the applicant's professional consultants; a summary of the reasons supporting this determination are, and the Planning Board finds that the proposed action:

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- Will not significantly affect existing air quality or noise levels;
- Will not significantly affect existing surface water quality or quantity or drainage;
- Will not significantly affect existing ground water quality or quantity;
- Will not significantly affect existing traffic levels;
- Will not create a substantial increase in solid waste production;
- Will not create a potential for erosion, flooding, leaching or drainage problems;
- Will not have a significant adverse impact on the environmental characteristics of our critical environmental area or environmentally sensitive sites or features;
- Will not have an impairment of the character or quality of important historical, archeological or architectural resources;
- Will not have an impairment of the character or quality of important aesthetic resources;
- Will not have an impairment of existing community or neighborhood character;
- Will not remove or destroy large quantities of vegetation or fauna;
- Will not remove or destroy large quantities of wildlife species or migratory fish;
- Will not have a significant adverse impact to natural resources;
- Is consistent with the Town of Orangetown Comprehensive/Master Plan;
- Will not have adverse economic or social impacts upon the Town;
- Will not create a hazard to human health; and
- Will not create a substantial change in the use of land, open space or recreational resources.

On motion by Kevin Farry and seconded by Andrew Andrews and carried as follows: Thomas Warren – Chairman, absent; Denise Lenihan, aye; Michael Mandel; Vice Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Lisa DeFeciani, aye; Tara Heidger, (alternate member) aye; and Andrew Andrews, aye, the Board made a Negative Declaration pursuant to SEQRA.

DECISION: In view of the foregoing and the testimony before the Board, the application was granted **Final Site Plan Approval Subject to the Following Conditions:**

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1. The following note shall be placed on the Site Plan: "At least one week prior to the commencement of any work, including the installation of erosion control devices or the removal of trees and vegetation, a pre-construction meeting must be held with the Town of Orangetown Department of Environmental Management and Engineering, Superintendent of Highways and the Office of Building, Zoning and Planning Administration and Enforcement. It is the responsibility and obligation of the property owner to arrange such a meeting."
2. The following note shall be placed on the Site Plan regarding Stormwater Management Phase II Regulations: Additional certification, by an appropriate licensed or certified design professional shall be required for all matters before the Planning Board indicating that the drawings and project are in compliance with the Stormwater Management Phase II Regulations.
3. All outdoor construction activities, including site clearing operations if applicable, shall take place between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday. No such activities shall take place on Sunday or a legal holiday. The same criteria shall apply to indoor construction activities, except that such activities may take place between the hours of 7:00 a.m. and 10:00 p.m.
4. Per chapter 43, the following variances from the Town of Orangetown Zoning Board of Appeals (ZBA) is required:
A concrete paver patio is noted on C-100 and to "see detail". No detail is provided. Per Chapter 43, Article VI, section 6.332;

"Driveways of single- or two-family residences shall be properly graded to meet the established grade of the public right-of-way and/or sidewalk. Said driveway shall be at least 10 feet wide with a maximum grade not to exceed 10% and installed with at least three inches of binder mix with a top wearing course of 1 1/2 inches of fine mix asphalt concrete, rolled with a four- to six-ton tandem roller or equivalent as approved by the Town Engineer or

Applicant must install a macadam driveway to meet the required Town Code or return to the ZBA for approval. If pavers are used rather than macadam, the applicant must return to the Planning Board for review and approval.
5. The applicant is reminded that no work can begin and no permit will be issued until all comments are met from various agencies and boards and the final site plan is stamped and signed by the Chairman of the Board.

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6. The Town of Orangetown Department of Environmental Management and Engineering reviewed the submitted information provided the following comments:
1. The applicant's engineer shall fully explain, within the Stormwater Management Plan, why Perc tests were not performed and describe the design criteria utilized to design the proposed subsurface stormwater detention systems. Reference to all applicable calculations and appendices shall be included in the explanation.
 2. A revised copy of the entire Stormwater Management Plan shall be provided as numerous pages are incomplete, e.g. half copied/ cutoff/ miss-printed.
 3. The word optional shall be removed from the "Internal Manifold-Inspection Port Detail" on drawing C-300. The required inspection port on the manifold, as well as the inspection ports on the chambers themselves, shall also be shown on the plan view, drawing C-100. DEME recommends that the "blow-up" of the plan view of the subsurface stormwater system be added to the drawings for ease of review.
 4. Drawing C-300 and the requested "blow-up" view of the subsurface stormwater system shall clearly show how (pipe size, slope, material, length) stormwater runoff from all of the proposed impervious surfaces and catchment devices (trench drains, catch basins, etc.) will be directed to the proposed subsurface systems. Currently, there are only lines shown labeled as D.
 5. Given the location of the proposed drywell, the applicant's engineer shall explain in writing, in the drainage calculations and the required Post Construction Stormwater Maintenance Agreement, how the drywell is to be maintained and cleaned.
 6. The overflow for the proposed drywell shall be piped to the level spreader, i.e. the open grate top shall not be used as the overflow.
 7. The top and invert elevations for all proposed cleanouts shall be added to the stormwater profiles.
 8. The proposed stormwater cleanouts, with top and invert elevations, shall be shown on the plan views.
 9. The size, slope, length and material for all proposed drainage piping shall be added to the plan view, drawing C-100 & C-210.
 10. A separate, full soil erosion and sediment control plan shall be added to the drawings. It shall include inlet protection, limit of disturbance, etc.
 11. Drawing legends shall be added the plans to allow for ease of review.
 12. The edge of pavement of Tweed Boulevard shall be clearly labeled on all of the drawings. The Right of Way for Tweed Boulevard shall also be labeled as such on the drawings.
 13. The proposed post construction stormwater maintenance agreement is under review by DEME.
 14. The datum for the contours shall be given on the plan.
 15. A note shall be added to the site plan indicating the source benchmark for the referenced datum, including the BM elevation.

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7. Drainage Review Recommendation – Brooker Engineering

The application has provided sufficient information to demonstrate that potential significant adverse impacts with respect to drainage can be mitigated. Brooker Engineering, the Planning Board Drainage Consultant, therefore recommends that the 11 Tweed Boulevard Site Plan be approved for drainage subject to the following Project Comments

Project Description

This is the third drainage review report for this project; the last review was dated July 28, 2021. The property is located on the east side of Route 9W; land slopes downhill to the east towards Route 9W. The property is undeveloped and wooded. The project consists of a new four-story single-family residence with parking and patios. Stormwater management facilities are proposed in the form of a cultec underground infiltration system in the driveway and a drywell in the rear yard. Steep slopes are present on the majority of the property. The slopes are significantly steep along the rear limit of disturbance, with a slope of 1.5 horizontal to 1 vertical. Test pits have been performed for this submission. The test pits were performed to establish the location of bedrock, which was found to be very shallow with respect to existing grade. The test pits were performed as part of the structural design for the building foundation and were not performed with respect to hydraulic parameters required for final design of the stormwater detention system.

Project Comments

1. Test pit locations and bedroom elevations should be added to the Site Plan.
2. As per the July 28, 2021 and March 9, 2021 drainage review reports, provide drainage calculations to support the size of the drywell and cultec system.
3. As per the July 28, 2021 and March 9, 2021 drainage review reports, show the overflow path from the drywell and cultec system.
4. Provide cultec invert information on the Grading and Utility Plan. Provide the overall dimension of the system on the Part Plan on Drawing C-210.
5. Provide a legend on all site plan drawings; clarify if "AD" on the Grading Plan is "Area Drain" and provide a detail for this type of structure.
6. Provide rims and inverts at all catch basins and cleanouts. Provide a catch basin or cleanout at all locations where there is a change in direction or slope of the storm drainage system.
7. Quantify any increases in stormwater runoff toward Tweed Boulevard and provide mitigation if necessary.
8. Revise the proposed grading around the driveway to reflect the curb.

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8. Rockland County Department of Planning had the following comments which are incorporated herein as conditions of approval:

- The applicant must comply with the conditions of the Rockland County Highway Department letter of February 27, 2023.
- The subject property is located approximately 60 feet east of Clausland Mountain Park, which is owned by Rockland County. A review must be completed by the County of Rockland Division of Environmental Resources and any concerns addressed.
- A review of the February 1, 2023 site plan must be completed by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control.
- The proposed well must be installed pursuant to all requirements of Article II of the Rockland County Sanitary Code, and under permit with the Rockland County Department of Health.
- The existing well must be properly decommissioned prior to its removal. The Rockland County Department of Health must be notified of the intent to decommission the well, and monitor the process to ensure that it is done in compliance with the specifications of Article II of the Rockland County Sanitary Code. All required permits must be obtained from them.
- The installation of a septic system, engineering plans and specifications shall be reviewed and approved by the Rockland County Department of Health, prior to construction.
- The property and owner information listed on the site plan indicates that the lot area is 0.67 acres, which differed from both the gross and net lot areas indicated on the Zoning information table, as well as the lot area indicated on the SEAF. This discrepancy must be resolved. In addition, the net lot area calculation must be provided.
- Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2018) of the New York State Standards for Urban

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Continuation of Condition #8...

- There shall be no net increase in the peak rate of discharge from the site at all design points.
- This site is environmentally constrained by the steep slopes. The Planning Board must be satisfied that all State and local regulations are strictly adhered to, to protect the environmental sensitivity of the site and its surroundings.
- Despite a stormwater pollution prevention plan (SEPPP) not being required, due to the steep slopes on the site, the Planning Board must be satisfied that the hydrologic analysis prepared for the subject site and the proposal for managing construction and post-construction stormwater is adequate.
- Retaining walls shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS PE.
- Rockland County Department of Planning recommends that the applicant use plants that are native to New York for the proposed landscaping to help preserve and promote biodiversity. Native plants are better adapted to the local climate and soils, making them easier to care for, and result in the need for less fertilizer pesticides, and use of water. They also have deeper root systems that help prevent erosion and increased runoff into local water bodies. A pdf titled "Native Plants for Gardening and Landscaping Fact sheets" that lists native species and the environments in which can grow can be found on NYSDEC website.
- The lighting plan shall show fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

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Continuation of Condition #8...

- The Hudson Valley Natural Resources Mapper identifies the subject site as Significant Biodiversity Areas (SBAs). SBAs are landscape areas in the Hudson River Estuary that contain high concentrations of biodiversity or unique ecological features. These areas contribute to and serve as a framework for conservation partnerships and voluntary protection efforts. One of the most significant threats to biodiversity is habitat destruction, alteration and fragmentation. Careful consideration should be given to development impacts with an SBA. Proactive planning that avoids or minimizes impact to the habitat of important areas and maintain habitat connections for wildlife movement will contribute to the long-term biodiversity of the region. The Planning Board must consider how the development on steep slopes with an increase of impervious surface, will impact the biodiversity of the area, specifically habitat fragmentation and the movement of species to and from and within these sensitive habitats.
- Additionally, a review of the New York Natural Heritage Program's (NYNHP) Forest Condition Index on the Hudson Valley Natural Resources Mapper, shows that the eastern portion of the site is part of a core forest. The Forest Condition Index is a spatial data set that estimates the condition of each forest patch relative to other patches in the Hudson River Estuary watershed using a variety of region-wide data. This index can be used to better understand individual forest values within a regional context and to prioritize forest areas for conservation and land-use planning efforts. Healthy forests protect water and air quality, provide habitat for plants and wildlife, help mitigate climate change, and provide recreational opportunities. The NYNHP identifies core forests as an interior forest area surrounded by at least 1 100-meter buffer of edge forest habitat. Core forest is especially important for sensitive wildlife that avoids areas that have been disturbed by humans. Development that results in the degradation of the quality of habitats, disrupts wildlife movement and facilitates the spread of invasive species, ultimately resulting in the loss of forest biodiversity. Avoiding further fragmentation of core forest will help conserve habitat integrity. In addition to using the forest conditions provided by this index for proactive land-use conservation and stewardship planning, the index can be used during project and development review to avoid fragmentation or degradation of high-quality forests and core forest areas. This Department encourages the planning Board to carefully consider the potential impacts of this project on the core forest that exists in and around site, and ensure such impacts are mitigated to the greatest extent possible.

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9. The Rockland County Department of Health (RCDOH) reviewed the information and offered the following comment;

- **The proposed septic system requires approval from the Rockland County Department of Health. Engineered plans have been submitted for review and are under review.**
- **This property will require a private well for water service. Approval is required from RCDOH.**
- Application is to be made to the Rockland County Department of Health for review of the system for compliance with the County Mosquito Code.

10. Rockland County Highway Department reviewed the submitted plans and offered the following comment:

- The applicant shall make sure that the proposed driveway locations have sufficient sight distance for traffic movements.
- A road work permit shall be obtained from the Rockland County Highway Department prior to starting any construction work in the property.

11. Orange and Rockland Utilities reviewed the submitted information and offered the following comment:

Orange and Rockland Utilities does not have a service feeding this property. Please contact O&R's new business department for all new services. All code 753 rules must be followed.

12. The applicant shall comply with all pertinent and applicable Board Decisions: ACABOR #22-16, Approved with Conditions, dated April 7, 2022; ZBA #21-91, Granted, dated January 19, 2022 and PB #21-16, Preliminary Site Plan Approval Subject to Conditions, dated July 28, 2021.

13. The applicant shall comply with all pertinent items in the Guide to the Preparation of Site Plans and Board Decision prior to signing the final plans.

14. All reviews and approvals from various governmental agencies must be obtained prior to stamping of the Site Plan.

15. All of the conditions of this decision, shall be binding upon the owner of the subject property, its successors and /or assigns, including the requirement to maintain the property in accordance with the conditions of this decision and the requirement, if any, to install improvements pursuant to Town Code §21A-9. Failure to abide by the conditions of this decision as set forth herein shall be considered a violation of Site Plan Approval pursuant to Town Code §21A-4.

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16. TREE PROTECTION: The following note shall be placed on the Site Plan: The Tree Protection and Preservation Guidelines adopted pursuant to Section 21-24 of the Land Development Regulations of the Town of Orangetown will be implemented in order to protect and preserve both individual specimen trees and buffer area with many trees. Steps that will be taken to reserve and protect existing trees to remain are as follows:

- a. No construction equipment shall be parked under the tree canopy.
- b. There will be no excavation or stockpiling of earth underneath the trees.
- c. Trees designated to be preserved shall be marked conspicuously on all sides at a 5 to 10-foot height.

d. The Tree Protection Zone for trees designated to be preserved will be established by one of the following methods:

- One (1) foot radius from trunk per inch DBH
- Drip line of the Tree Canopy. The method chosen should be based on providing the maximum protection zone possible. A barrier of snow fence or equal is to be placed and maintained one yard beyond the established tree protection zone. If it is agreed that the tree protection zone of a selected tree must be violated, one of the following methods must be employed to mitigate the impact:
 - Light to Heavy Impacts – Minimum of eight inches of wood chips installed in the area to be protected. Chips shall be removed upon completion of work.
 - Light Impacts Only – Installation of ¾ inch of plywood or boards, or equal over the area to be protected.

The builder or its agent may not change grade within the tree protection zone of a preserved tree unless such grade change has received final approval from the Planning Board. If the grade level is to be changed more than six (6) inches, trees designated to be preserved shall be welled and/or preserved in a raised bed, with the tree well a radius of three (3) feet larger than the tree canopy.

17. All landscaping shown on the site plans shall be maintained in a vigorous growing condition throughout the duration of the use of this site. Any plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

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18. Prior to the commencement of any site work, including the removal of trees, the applicant shall install the soil erosion and sedimentation control as required by the Planning Board. Prior to the authorization to proceed with any phase of the site work, the Town of Orangetown Department of Environmental Management and Engineering (DEME) shall inspect the installation of all required soil erosion and sedimentation control measures. The applicant shall contact DEME at least 48 hours in advance for an inspection.

19. The contractor's trailer, if any is proposed, shall be located as approved by the Planning Board.

20. If the applicant, during the course of construction of any required public improvements or private sanitary or storm sewer improvements, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, such conditions shall be reported immediately to DEME. The applicant (or the applicant's engineer) shall submit their recommendations as to the special treatment or design modification to be given such areas to secure adequate, permanent and satisfactory construction. DEME shall investigate the condition(s), and shall either approve the applicant's (applicants' engineer's) recommendations to correct the condition(s), or order a modification thereof. In the event of the applicant's (applicants engineer's) disagreement with the decision of DEME, or in the event of a significant change resulting to the subdivision plan or site plan or any change that involves a wetland regulated area, the matter shall be decided by the agency with jurisdiction in that area (i.e. Federal Wetlands - U.S. Army Corps of Engineers).

21. Permanent vegetation cover of disturbed areas shall be established on the site within thirty (30) days of the completion of construction.

22. Prior (at least 14 days) to the placing of any road sub-base, the applicant shall provide the Town of Orangetown Superintendent of Highways and DEME with a plan and profile of the graded road to be paved in order that these departments may review the drawings conformance to the approved construction plans and the Town Street Specifications

23. The Planning Board shall retain jurisdiction over lighting, landscaping, signs and refuse control.

The foregoing Resolution was made and moved by. Lisa DeFeciani and seconded Andrew Andrews and carried as follows: Thomas Warren – Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Lisa DeFeciani, aye; Tara Heidger, (alternate member), aye; and Andrew Andrews, aye.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and file a certified copy in the Office of the Town Clerk and the Office of the Planning Board.

Dated: March 22, 2023
Cheryl Coopersmith
Town of Orangetown Planning Board



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**PB #23-16: SMK Erie Subdivision Plan
Recommendation to Release Escrow**

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**TO: SMK Homes, 23 Water Edge, Congers, New York
FROM: Town of Orangetown Planning Board**

RE: PB #23-16: SMK Greene Subdivision Performance Bond: The application of SMK Home Builders, owner, for Release of Escrow at a site to be known as **"SMK Greene Subdivision Plan"**, in accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the Town of Orangetown, Chapter 21 of the Code of the Town of Orangetown. The site is located at 318 Western Highway, Tappan, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 74.18, Block 2, Lot 34; in the R-15 zoning district.

Heard by the Planning Board of the Town of Orangetown at a meeting held **Wednesday, March 22, 2023**, at which time the Board made the following determinations:

The Board received the following communications:

1. Project Review Committee Report dated March 8, 2023.
2. Interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by Jane Slavin, R.A., AIA, Director, dated March 14, 2023.
3. Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Eamon Reilly, PE, Commissioner dated February 6, 2023 and James Dean, Superintendent, dated February 10, 2023.

The Board reviewed the plan. The meeting was then open to the public.

RECOMMENDATION: In view of the foregoing, the Planning Board Recommends release of the Escrow for the SMK Green Subdivision in accordance with the Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by signed by Eamon Reilly, PE, Commissioner dated February 6, 2023 and James Dean, Superintendent, dated February 10, 2023.

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**PB #23-16: SMK Erie Subdivision Plan
Recommendation to Release Escrow**

**Town of Orangetown Planning Board Decision
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The foregoing Resolution was made and moved by Michael McCrory and second by Denise Lenihan and carried as follows: Thomas Warren - Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Andrew Andrews, aye; Tara Heidger, (alternate member) and Lisa DeFeciani, aye.

The Clerk of the Board is hereby authorized, directed and empowered to sign this **Recommendation** and file a certified copy in the Office of the Town Clerk and this Office of the Planning Board.

**Dated: March 22, 2023
Town of Orangetown Planning Board**



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**PB #23-17: Dish Wireless Facility
Co-Location Rooftop Plan
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**TO: David Kenny, Snyder & Snyder, 94 White Plains Road, Tarrytown,
New York 10591**
FROM: Orangetown Planning Board

**RE: Dish Wireless Facility Co-Location at Existing Base Station –
Rooftop Plan and Special Permit:** The application of Dish Wireless/Snyder &
Snyder LLP, applicant for Salisbury Point Cooperative, owner, for Prepreliminary/
Preliminary/ Final Co-Location at Existing Base Station – Rooftop Review and
Special Permit at a site known as “**Dish Wireless Facility Co-Location at Existing
Base Station – Rooftop Plan and Special Permit**” in accordance with Article 16 of
the Town Law of the State of New York, the Land Development Regulations of the
Town of Orangetown and Chapter 43, Article V111, Section 8.15 of the Code of the
Town of Orangetown and to determine the environmental significance of the
application pursuant to the requirements of the New York State Environmental
Quality Review Act. The site is located at 1-4 Salisbury Point, South Nyack, Town
of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax
Map as Section 66.78, Block 1, Lot 27 in the SN-HRA zoning district.

Heard by the Planning Board of the Town of Orangetown at a meeting held
Wednesday, March 22, 2023, the Board made the following determinations:

David Kenny appeared and testified for the applicant.

The Board received the following communications:

1. An interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by Jane Slavin, RA, AIA, Director, dated March 20, 2023, with attachment.
2. An Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E., March 17, 2023.
3. Report and Email from Ronald Graiff, PE, dated March 19, 2023.
4. Email from Orange and Rockland Utilities, from Alfred Gaddi, dated March 15, 2023.
5. A notice from the Rockland County Highway Department, signed by Dyan Rajasingham, Engineer II, dated March 14, 2023.
6. Notice from the Rockland County Department of Planning, signed by Jake Palant, dated March 13, 2023.
7. Notice from the Village of Grandview-ion-Hudson, signed by Julie Pagliaroli, dated March 14, 2023.

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8. A letter to the Planning Board from Snyder & Snyder, LLP signed by David Kenny, Esq., dated March 3, 2023.

9. The following items were submitted by the applicant:

- RF Justification Report Site NJJER01348A, prepared by Pawan Madahar, dated November 18, 2022.
- FCC Compliance Report, prepared by Pinnacle Telecom Group, dated February 1, 2023

- Short Environmental Assessment Form, signed by Joseph Johnson, dated January 18, 2023
- Photo simulations of Proposed Co-location, prepared by Airosmith Engineering, dated January 30, 2023

- Structural Report prepared by Albul Engineering, dated January 26, 2023

10. Plans prepared by Airosmith Engineering, last dated February 1, 2023:

- T-1: Title Sheet
- Z-1: Abutters map
- Z-2: Overall Site Plan
- Z-3: Enlarged Building Plan
- Z-4: Antenna Plan, Elevation and Schedule
- Z-5: North and South Elevations
- Z-6: East and West Elevations
- Z-7: Equipment Platform and H-Frame Details
- Z-8: Equipment Details
- Z-9: Equipment Details
- Z-10: Equipment Details

The Board reviewed the plans. The meeting was open to the Public.

A motion was made to open the Public Hearing portion of the meeting by Kevin Farry and second by Denise Lenihan and carried as follows: Thomas Warren – Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Lisa DeFeciani, aye Tara Heidger, (alternate member), aye; and Andrew Andrews, aye.

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There being no one to be heard from the Public, a motion was made by Kevin Farry and seconded by Denise Lenihan and carried as follows: Thomas Warren – Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice-Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Lisa DeFeciani, aye; Tara Heidger, (alternate member), aye; and Andrew Andrews, aye.

SEQRA

The proposed action is classified as an “unlisted action” as defined by Section 617.2 (ak) of the New York State Environmental Quality Review Regulations (SEQRR). No agency, other than the Orangetown Planning Board will have any significant involvement in the review process, pursuant to Section 617.6 of SEQRA. On motion by Andrew Andrews and seconded by Denise Lenihan and carried as follows: Thomas Warren – Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice-Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Lisa DeFeciani, aye; Tara Heidger, (alternate member), aye; and Andrew Andrews, aye, the Board declared itself as Lead Agency.

Pursuant to New York Code, Rules & Regulations (NYCRR) Section 617.7, the Town of Orangetown Planning Board, as lead agency, for the reasons articulated in this Board’s analysis of all of the submissions by the applicant, interested agencies, departments and the public, with respect to this project including the Environmental Assessment Form, which reasons are summarized in the motion, hereby determines that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared.

After having identified the relevant areas of environmental concern, namely drainage, surface water runoff, land clearing, vegetation, fauna, traffic and noise levels, and after having taken a hard look at said environmental issues, and after having deliberated regarding such concerns, and having heard from the applicant, the applicant’s professional representatives, namely On-Air Engineering and having heard from the following offices, officials and/or Departments: (Town of

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Orangetown): Project Review Committee, Office of Building, Zoning, Planning Administration and Enforcement and Department of Environmental Management and Engineering; and having heard from the following involved and interested agencies: Rockland County Department of Highways, Rockland County Department of Planning and the Village of Grandview-on-Hudson, and having reviewed proposed Site Plans, a summary of the reasons supporting this determination are, and the Planning Board finds, that the proposed action:

- Will not significantly affect existing air quality or noise levels;
- Will not significantly affect existing surface water quality or quantity or drainage;
- Will not significantly affect existing ground water quality or quantity;
- Will not significantly affect existing traffic levels;
- Will not create a substantial increase in solid waste production;
- Will not create a potential for erosion, flooding, leaching or drainage problems;
- Will not have a significant adverse impact on the environmental characteristics of our critical environmental area or environmentally sensitive sites or features;
- Will not have an impairment of the character or quality of important historical, archeological or architectural resources;
- Will not have an impairment of the character or quality of important aesthetic resources;
- Will not have an impairment of existing community or neighborhood character;
- Will not remove or destroy large quantities of vegetation or fauna;
- Will not remove or destroy large quantities of wildlife species or migratory fish;
- Will not have a significant adverse impact to natural resources;
- Is consistent with the Town of Orangetown's Comprehensive/Master Plan;
- Will not have adverse economic or social impacts upon the Town;
- Will not create a hazard to human health; and
- Will not create a substantial change in the use of land, open space or recreational resources.

On motion by Thomas Warren – Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice-Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Lisa DeFeciani, aye; Tara Heidger, (alternate member), aye; and Andrew Andrews, aye, the Board made a Negative Declaration pursuant to SEQRA.

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DECISION: In view of the foregoing and the testimony before the Board, the application was **granted a Final Approval and Special Permit Subject to the Following Conditions:**

1. The following note shall be placed on the Site Plan: "At least one week prior to the commencement of any work, including the installation of erosion control devices or the removal of trees and vegetation, a Pre-construction meeting must be held with the Town of Orangetown Department of Environmental Management and Engineering, Superintendent of Highways and the Office of Building, Zoning and Planning Administration and Enforcement. It is the responsibility and obligation of the property owner to arrange such a Meeting."
2. All outdoor construction activities, including site clearing operations if applicable, shall take place between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday. No such activities shall take place on Sunday or a legal holiday. The same criteria shall apply to indoor construction activities, except that such activities may take place between the hours of 7:00 a.m. and 10:00 p.m.
3. The Planning Board shall contract with an independent Structural Engineer to provide an independent study of the existing analysis provided by the Applicant, to determine if the parapet is capable of supporting the equipment cabinet. The applicant shall provide funds to pay the consultant in the form of an escrow account. The escrow amount is to be determined.
4. There will be Emergency Shut-Off signage to be posted on the door and at the basement, noting signage with a 24-hour telephone number on the door.
5. The applicant is proposing a co-location of wireless equipment for Dish Wireless.
6. The equipment shall also be painted to match the color of the building facade.
7. The Town of Orangetown Department of Environmental Management and Engineering had no comment on this project at this time.

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8. Orange and Rockland Utilities reviewed the submitted information and offered the following:

The proposed Dish Wireless work at 1-4 Salisbury Point may be in conflict with the existing gas facilities. Please contact O&R's new business department for any disconnects/ reconnects. All code 753 rules must be followed.

9. The Radio Frequency Consultant, Ronald Graiff, PE, offered the following comments in a report and email dated March 19, 2023:

Mr. Kenny in his cover letter notes that this proposed installation is subject to the FCC requirements of a so called "Eligible Facility" under 47CFR 1.6100 *et al.* and therefore, is exempt from a complete review of your Board. It does appear that the requirements of the eligible facility are met. That said, the application contains much information regarding the proposed facility. This report will comment on the submissions for your Board's review and consideration.

The Antenna Mount Analysis is quite well done and indicates what Mr. Abdul believes demonstrates compliance with the required structural requirements. This report is beyond the expertise of this engineer and therefore it is highly recommended that your Board hire a qualified Professional Structural Engineer to review and comment on the Report.

The Radio Frequency Report can only be described as interesting. Mr. Mudahr provides existing, stand alone and composite coverage of the proposed installation. Section 4 describes the performance metrics required to provide the coverage required by Dish.

The signal strengths and methods of describing their impact on the system are in line with the requirements of a 5G system, let alone the LTE systems utilized by the other major carriers. In his section 6 he presents calculated coverage maps of the existing and proposed system. His first figure (unfortunately none of the figures are identified with a number or letter) indicates coverage of the area in the

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vicinity of Salisbury Point. Note that the darkest green is the strongest signal required to provide coverage to urban areas with may contain concrete and stone buildings as in a city. The lighter green is the signal strength required to provide suburban coverage as are in the general area of Orangetown with wood framed homes and businesses. While he does not note it, those signals are also, more than acceptable for in-vehicle coverage. He defines the tan coverage as acceptable for on-street coverage that one might use when walking or jogging in the area.

The second figure basically indicates the area around Salisbury Point as one can see dominated by the Hudson River. The third figure indicates the so called "low band" coverage (600 MHz the most powerful frequency Dish utilizes). Curiously it appears that there are basically no areas that are experiencing a signal level less than light green, the suburban coverage and in vehicle coverage. It is not clear what Mr. Mudahr is attempting to demonstrate here. Figure three demonstrates the stand-alone coverage that the installation might coverer in the area. Once again, note that this coverage is entirely in the area of the Hudson River. Finally, in the fourth figure he demonstrates the combined coverage of the site with the existing coverage. Curiously this figure 4 appears to be identical to figure 2 with no new coverage provided. The other interesting feature of these coverage maps is that appears to be no dark green (the urban very strong signal) that would normally appear in the close vicinity of the site.

The next group of figures provide coverage maps as in the first 4, but this time with the use of the so called "mid band" frequencies (probably the 1900 or 2100 MHz bands that Dish network has) which are less effective in coverage. Figure 5 shows the existing mid band coverage in the area. Note that in the Hudson River to the south of the highway there are areas of weaker on street coverage indicated by the tan areas. Figure 6 demonstrates the stand-alone coverage that the site will provide with these frequencies. As would be expected this coverage is significantly less than that provided by the low band frequencies. Finally Figure 7 demonstrates the combined coverage of the site with the existing coverage. Curiously the existing low signal areas in the Hudson River remain and it appears that no new coverage is provided.

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Continuation of Condition #9...

As noted above it is unclear what this submission is supposed to demonstrate. It does not appear that there is a dearth of existing coverage and the proposed site does not appear to provide any new coverage to the area. The only conclusion one might take from this is that the proposed site is to provide *capacity* to the existing system especially in the 278/87 corridor over the Tappan Zee Bridge. If so, the application should state that.

FINDING: While the so-called eligible facility may limit your Board's ability to grant such an application it would seem that it does have the ability to question the need for such a facility as a result of the coverage map demonstrations.

The Antenna Site RF Compliance Report ("Report") prepared February 1, 2023 and auto signed by Daniel Collins. The purpose of such reports is to estimate the public exposure from radio frequency energy emanating from the proposed site. While your Board *cannot deny an application as a result of radio frequency exposure*, it can insure that such a report is correct and utilize such a report for distribution to the residents of the buildings or the community.

It is unclear who actually performed the work in this report as Mr. Collins as well as this engineer have been involved in such studies at this site for a period of perhaps 15 or more years. In that time carriers such as MetroPCS, Sprint, and T-Mobile for example as well as the carriers noted in this report have been located at one time or another on the buildings and not just #3' and were evaluated by this engineer. Moreover, FCC Bulletin OET-65 at pages 38 and 39 Figures 5 and 6 does (attached) define the method of calculation of multiple emitter sites when antennas are on two structures in the immediate vicinity of each other. This analysis does not.

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Continuation of Condition #9...

The Report also fails to realize the effect of the antennas on the existing buildings as noted in Bulletin OET-65 in Figure 6. Note in the Report, for example, on page 4 paragraph 1 "At street level. ...," and on page 8 paragraph 1 it notes that "the area below the antennas at street level is of interest for uncontrolled exposure to the general public, so the antenna's vertical plane emission characteristic is usedin the "downward" direction." The Report then goes on to claim "in this type of antenna radiation pattern diagram, **the antenna is effectively pointed** at the three o'clock position (the horizon) " One can easily see what this means by looking at Figure 1 on page 9 of the Report where it is clear that all of the energy emanating from the antenna is pointed straight at the horizon. Should one now look at View 2 of the AeroSmith photo simulation it is evident that the proposed antennas as well as others are aimed with maximum power at an adjacent building.

Finally, in the Report on page 10, two carriers are identified that utilize something identified as a "generic" antenna. This engineer has never seen a "generic" antenna but rather specific antennas manufactured by specific companies with specific characteristics.

An examination of satellite maps available from Google maps for example will show that there are antennas on at least one other building, perhaps #2.

See next pages for diagrams from the Report:

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Continuation of Condition #9...

Figure 4. Single tower, co-located antennas, ground-level exposure (at 2 m).

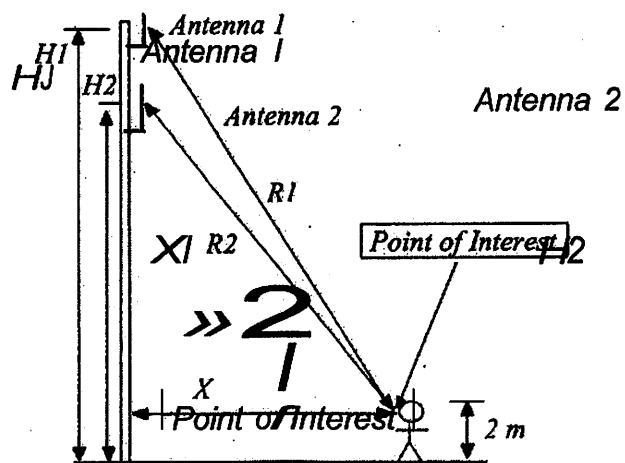
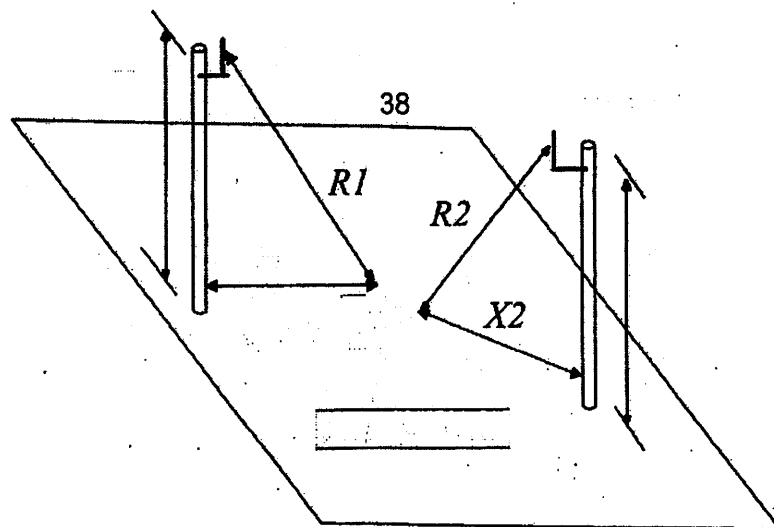


FIGURE 5. Antennas on multiple towers contributing to RF field at point of interest.



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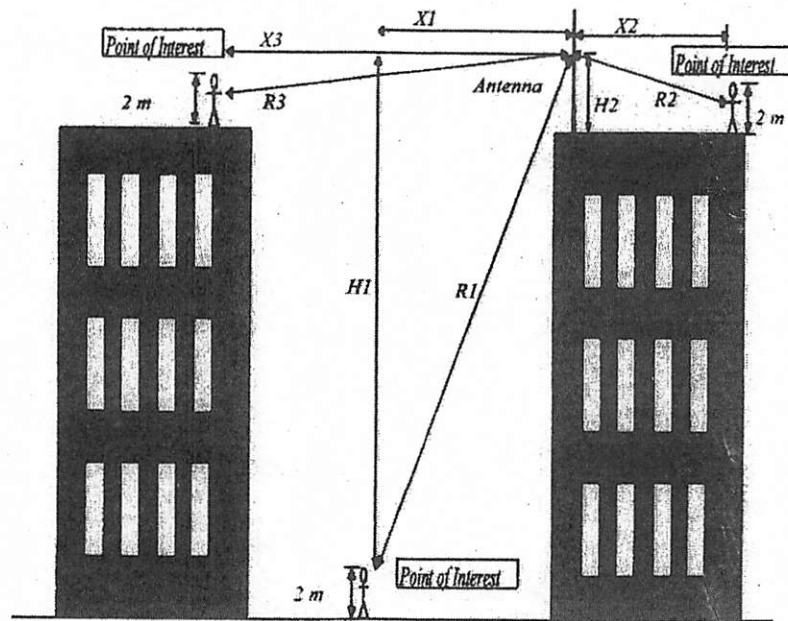


FIGURE 6. Single roof-top antenna, various exposure locations.

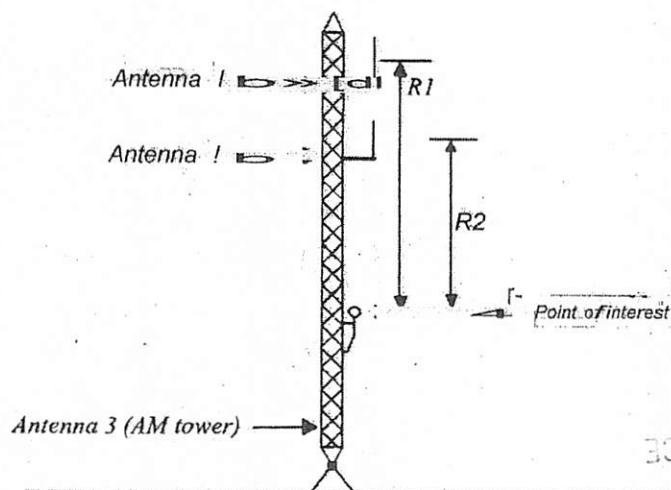


FIGURE 7. Single tower, co-located antennas, on-tower exposure.

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Continuation of Condition #9...

The calculation of effective radiated power in all elevations and azimuths utilizing such "generic" antennas is only a guess.

Notwithstanding all of the issues that have been identified with the Report please note the following: The guidelines set up by the FCC as well as health agencies in most countries are so conservative, the maximum RF energy levels (noted by the FCC as Maximum Permissible Exposure "MPE") that might have an effect on Human Beings is 10 or more times greater. In other words, even if the results of a report such as been performed in this application were at 100% MPE they would be at least 10 times less than levels that *may* cause thermal (non-genetic) issues in Human Beings. Rest assured that the issues raised in this review deal with the method only and not the ultimate result.

This review and report is based on the information presented and to the best of Mr. Graff knowledge and belief that the information contained therein is true, accurate and complete.

10. The following agencies do not object to the Town of Orangetown Planning Board assuming responsibilities of lead agency for SEQRA purposes:

- Rockland County Department of Highways
- Rockland County Department of Planning
- Rockland County Health Department
- Village of Grandview-on-Hudson

11. The applicant shall comply with all pertinent items in the Guide to the Preparation of Site Plans prior to signing the final plans.

12. All reviews and approvals from various governmental agencies must be obtained prior to stamping of the Site Plan.

13. All of the conditions of this decision, shall be binding upon the owner of the subject property, its successors and/or assigns, including the requirement to maintain the property in accordance with the conditions of this decision and the requirement, if any, to install improvements pursuant to Town Code §21A-9. Failure to abide by the conditions of this decision as set forth herein shall be considered a violation of Site Plan Approval pursuant to Town Code §21A-4.

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14. The contractor's trailer, if any is proposed, shall be located as approved by the Planning Board.

15. If the applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, such conditions shall be reported immediately to DEME. The applicant shall submit their recommendations as to the special treatment to be given such areas to secure adequate, permanent and satisfactory construction. DEME shall investigate the condition(s), and shall either approve the applicant's recommendations to correct the condition(s), or order a modification thereof. In the event of the applicant's disagreement with the decision of DEME, or in the event of a significant change resulting to the subdivision plan or site plan or any change that involves a wetland regulated area, the matter shall be decided by the agency with jurisdiction in that area (i.e. Wetlands - U.S. Army Corps of Engineers).

16. Permanent vegetation cover of disturbed areas shall be established on the site within thirty (30) days of the completion of construction.

17. Prior (at least 14 days) to the placing of any road sub-base, the applicant shall provide the Town of Orangetown Superintendent of Highways and DEME with a plan and profile of the graded road to be paved in order that these departments may review the drawings conformance to the approved construction plans and the Town Street Specifications

18. The Planning Board shall retain jurisdiction over lighting, landscaping, signs and refuse control.

The foregoing Resolution was made and moved by Denise Lenihan and seconded by Michael McCrory and carried as follows: On motion by Thomas Warren – Chairman, absent; Denise Lenihan, aye; Michael Mandel, Vice-Chairman, aye; Kevin Farry, aye; Michael McCrory, aye; Lisa DeFeciani, aye; Tara Heidger, (alternate member), aye; and Andrew Andrews, aye.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and file a certified copy in the Office of the Town Clerk and the Office of the Planning Board.

Dated: March 22, 2023
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attachment



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**NEGATIVE DECLARATION
Notice of Determination of Non-Significance**

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This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Regulation) of the Environmental Conservation Law.

The PLANNING BOARD, TOWN OF ORANGETOWN, as Lead Agency, has determined that the proposed action described below will not have a significant impact on the environment and a Draft Environmental Impact Statement will not be prepared.

**NAME OF ACTION: Dish Wireless Facility Co-Location Rooftop Plan
and Special Permit, Final Approval Subject to Conditions**

SEQR STATUS: Type I _____ Unlisted XXXXXX
CONDITIONED NEGATIVE DECLARATION: Yes _____ No XXXXXX

DESCRIPTION OF ACTION: Special Permit and Site Plan Review

LOCATION: The site is located at 1-4 Salisbury Point, South Nyack, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 66.78, Block 1, Lot 27 in the SN-HRA zoning district.

REASONS SUPPORTING THIS DETERMINATION:

The Orangetown Planning Board, as Lead Agency, determined that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:

The project will not have a significant impact upon the environment and a DEIS need not be prepared because the proposed action does not significantly affect air quality, surface or ground water quality, noise levels or existing external traffic patterns. In addition, it will have no impact upon the aesthetic, agricultural or cultural resources of the neighborhood. No vegetation, fauna or wildlife species will be affected as a result of this proposed action. The proposed action is consistent with the Town of Orangetown's Master Plan and will not have any adverse economic or social impacts upon the Town or its businesses or residences.

If Conditioned Negative Declaration, the specific mitigation is provided on an attachment.

For Further Information contact:

Jane Slavin, RA, AIA, Director, Office of Building, Zoning and Planning
Administration and Enforcement
Town of Orangetown
20 Greenbush Road
Orangeburg, NY 10962
Telephone Number: 845-359-5100

For Type I Actions and Conditioned Negative Declarations, a copy of this notice is sent: - Commissioner, New York State Department of Environmental Conservation, - Region 3 Headquarters, NYSDEC, - Town Supervisor, Applicant,

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