

Statement in Opposition to the Homeland Towers Application
for 15 Rockledge Road, Nelsonville, NY

Submitted to the Village of Nelsonville Zoning Board of Appeals

By the Philipstown Cell Solutions Group

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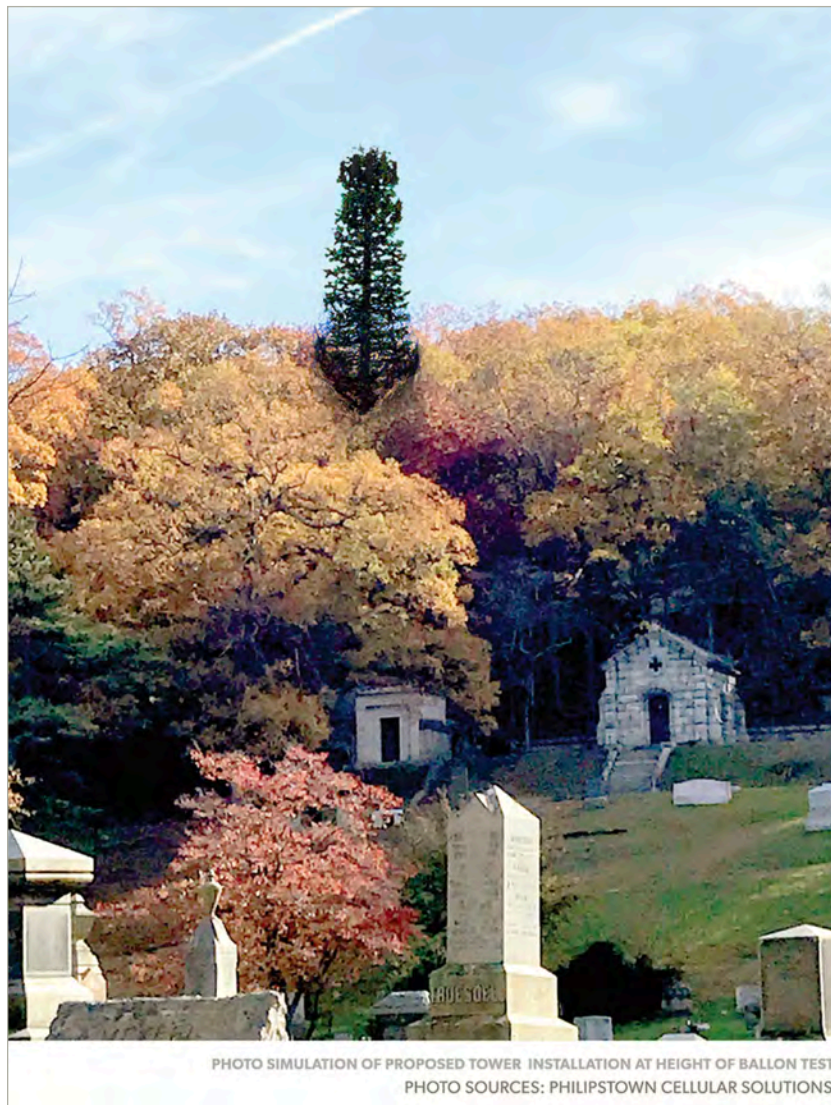


PHOTO SIMULATION OF PROPOSED TOWER INSTALLATION AT HEIGHT OF BALLON TEST
PHOTO SOURCES: PHILIPSTOWN CELLULAR SOLUTIONS

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188-68 Application for special permit to place new tower.

A.1 “Special permits are to be **based on actual need** and not on speculation of possible future needs which may or may not materialize.” –Village of Nelsonville Code

188-70 Standards for issuing special permits.

A.6 That the proposed antenna installation or tower **will not have a significant adverse impact on scenic or historic resources**. If a significant adverse visual impact is identified, the applicant shall demonstrate that suitable landscaping, buffering or other techniques will be used, and that they are able to minimize **such impacts to a level of insignificance**.” –Village of Nelsonville Code

Introduction

As neighbors, we write to provide support to the ZBA in its review of Homeland Tower’s application. Because this area of law is so complex, we joined forces to clarify the essential matters under deliberation. If the ZBA denies the application, or delays a decision indefinitely, there is a fair chance the applicant would take the Village to court. What we lay out below are reasons why you should not be worried about such a court case.

For a ZBA determination to stand upon judicial review, it must be based on the substantive criteria found in the local zoning ordinance. When evaluating a substantial evidence claim under the Telecommunications Act, courts look to the applicable substantive standards under state and local law.

Herein, we submit substantial evidence to demonstrate that Homeland Towers’ application to install a cell tower at 15 Rockledge Road is not permissible under Nelsonville Village Code.

In issuing a special permit for cell tower construction, Nelsonville Code requires the ZBA to determine that the request is “based on **actual need**” and that the structure “will not have a significant adverse impact on **scenic or historic** resources.”

As we outline below, Homeland Towers has not provided substantial evidence of “need,” nor has it demonstrated that its proposed tower at 15 Rockledge Road would have an insignificant adverse impact on the Village of Nelsonville’s legendary “scenic or historic resources.”

I. Impact on Scenic & Historic Resources

Since Nelsonville Code expressly requires ZBA to consider the negative impact on scenic and historic resources by installation of a communications tower, it is within the purview of the board to consider this ground as a basis for denial of an application if supported by substantial evidence. Because terms such as “insignificance,” “significant adverse visual impact” and

“scenic or historic resources” are not defined within Nelsonville Code, it is within the ZBA’s discretion to look to outside sources to assist with defining these terms.

Nelsonville, including 15 Rockledge Road, falls within the Cold Spring Subunit of the Hudson Highlands Scenic Area of Statewide Significance (SASS) **[exhibit A]**. This New York State SASS designation seeks to protect “New York’s landscape tradition [which] includes appreciation of both the natural and the cultural landscape and its coastal scenic landscapes.” In fact, original meetings for SASS designation were held in 1990 at the Philipstown Town Hall, the same place where we have met to debate the cell tower.

To emphasize the significance of this valuable resource, the SASS states that “the region has long been recognized as a scenic area of national importance. It inspired the Hudson River School of Painting in the nineteenth century, the first indigenous American art movement, and the American Romantic Landscape Movement which subsequently spread nationwide and influenced designed landscapes and parks throughout the country.”

Clearly, the valuable scenic, historical and cultural resources that the SASS designation seeks to protect, are within the ZBA’s discretion to consider when attempting to understand and define terms such as “scenic resources” within the Nelsonville Code.

The proposed tower installation falls within the Cold Spring subunit of the Hudson Highlands SASS, and as such is subject to Policy 24 **[exhibit B]**. The primary objective of Policy 24 is to “provide for the designation and protection of scenic areas of statewide significance.” These guidelines are meant to establish whether any proposed development would “affect a scenic resource of statewide significance ... [and] ... be likely to impair the scenic beauty of an identified resource.”

To be clear, Policy 24 is not a prohibition on development outright, but rather seeks to guide development within existing scenic resources as opposed to irrevocably marring it. Ultimately, the “narratives prepared for each SASS describe the character and scenic quality of the SASS landscape, **providing guidance to the public and regulatory agencies** as to which landscape elements should be protected and which actions could impair the scenic quality of the SASS.”

And Policy 24 defines impairment:

... impairment of a landscape’s scenic quality can occur in two principle ways: 1) through the irreversible modification or destruction of landscape features and architectural elements which contribute significantly to the scenic quality of the coast, and 2) through the **addition of structures which reduce views or are discordant** with the landscape because of their **inappropriate scale**, form, or construction materials. (Emphasis added).

The NYS SASS report also identifies the significant value of cultural and historic resources of our region, corroborated by local historians **[exhibit C]**:

The Hudson Highlands SASS is a landscape rich in symbolic value and meaning, resulting from historic events, folklore, art and literature, and influencing public perception of the area. The area was at the center of the Romantic Movement that began before the Civil War and became a pervasive movement that affected all aspects of art and society in the region, including architecture, literature, painting, recreation and tourism. This has led to **a continuum of environmental and scenic appreciation concerned with the Hudson Highlands that runs through the last two centuries.** (Emphasis added).

It is important to note that while additional levels of protection for SASS area can be granted to municipalities with Local Waterfront Revitalization Programs (LWRP), a municipality's decision not to incorporate an LWRP does not prevent ZBA from considering SASS guidelines when making decisions that affect state-identified scenic resources.

Because terms such as "adverse visual impact" and "scenic resources" remain undefined in the Village Code, it is wholly within the ZBA's discretion and jurisdiction to turn to SASS and Policy 24 for guidance in interpreting and applying these terms and their meanings in reaching the development decisions before it.

It cannot be denied that the cultural, historic and scenic importance of this region is significant and can clearly be distinguished from other areas or regions where it is less so, particularly with respect to proposed telecommunications development. The site of the proposed tower falls directly within this scenic and historic landscape. As such, there must be a high degree of scrutiny of any adverse impact upon these recognized resources.

Ultimately, the standard remains whether such reliance by a ZBA on Policy 24 to inform its decision is rationally based. It is supported New York State public policy that development proposals falling within an SASS designation be scrutinized according to Policy 24 guidelines. Therefore it is rationally based for the ZBA to consider such guidelines when evaluating the potential adverse effect on identified scenic resources in this matter.

With its discordant scale, ineffective camouflage, and placement adjacent to historic landmarks which are National Register listed, National Register eligible and highly valued by our local community [**exhibit D**], Homeland fails to prove that the impact of a proposed tower at 15 Rockledge has been minimized to a level of insignificance as required under Village Code. Rather, the record clearly shows the proposed tower to be highly intrusive into one of our community's most sacred spaces.

II. No Actual Need

"The FCC Assigns Licenses in the Cellular service to the 850 MHz Frequency bands"
—Pier Con Engineering Report

Similarly, Homeland Towers has failed to demonstrate an "actual need" for a cell tower as required under Nelsonville Code.

Here it is critical to note that the projected coverage maps submitted by Homeland Towers show only the frequency bands of 700 MHz and 2100 MHz. The FCC assigns LTE service to the 700 MHz and 2100 MHz frequency bands. As the Pier Con engineering report makes clear "the 700 band is for 4G broadband data...The AWS band [2100 MHz] is also for LTE 4G broadband data in areas where the LTE band is near full capacity." Mobile data is regulated as an "information service" unlike mobile voice (850 MHz) which is regulated as a public utility and "essential service."

Homeland Towers wants to build a data service tower at 15 Rockledge Road. To argue that there is a gap in mobile voice coverage, they have generated maps that seemingly show a gap in mobile broadband data coverage. Both AT&T and Verizon operate in our area in the 850 MHz range and they didn't provide any maps to show significant gaps in service in mobile voice/text at that frequency. None of the engineering maps show coverage of mobile voice/text service (the 850 MHz frequency band), because, **there are no significant gaps of mobile voice service in this frequency.**

Mr. Robert Gaudioso has written that "there is no legal basis for the Zoning board to consider whether the service being provided is voice as opposed to broadband data service as both forms of service are telecommunications services." We categorically dispute this claim and argue that, to date, FCC does not regulate mobile broadband data as an essential service under the Telecommunications Act. `

In fact, carrier companies have long opposed the FCC extending this designation under the Telecommunications Act to avoid being subject to "heavy-handed" federal regulations. In a 2015 filing with the FCC, AT&T argued that "mobile-data providers are statutorily immune, perhaps twice over, from treatment as common carriers."

And in November 2017, the FCC released its Restoring Internet Freedom Order designed to:

- **Reinstate the "information service" classification** of broadband Internet access service first established on a bipartisan basis during the Clinton Administration.
- Restore the determination that **mobile broadband is not a "commercial mobile service"** subject to heavy-handed regulation.

To recap, mobile broadband data (sharing iphone photos, streaming Netflix, etc) is not granted the same “essential” status as a public utility that mobile voice services enjoy under the Telecommunications Act. Any perceived gaps within frequency bands of 700 MHz and 2100 MHz (mobile broadband data) submitted by Homeland Towers are not afforded federal protection.

We highlight Homeland’s glaring omission of mobile voice coverage maps and offer substantial evidence of call/text logs **[exhibit E]** and independent coverage assessments using Rootmetrics and Sensorly software **[exhibit F]** to demonstrate that both Verizon and AT&T provide reliable mobile voice service for their Village consumers.

Carrier maps published online **[exhibit G]** also show that the Villages of Cold Spring and Nelsonville currently enjoy wide coverage (voice and data) in contrast to the projected coverage maps submitted in the Homeland Towers application.

As our substantial evidence proves, current coverage provides reliable voice service for the relatively modest traffic of Nelsonville. The Village of Nelsonville (inhabitants 628, 2010 census) largest roads NY301 and 9D are not major highways. The New York Department of Transportation classifies them as "Rural: minor arterial" and "Rural: major collector" respectively **[exhibit H]**.

In addition, Homeland Tower’s projected coverage maps are made using complex modelling software with relatively generic mapping data. As such, they are subject to inaccuracies and manipulation. The coverage maps submitted by Homeland don’t define the parameters used, and thus must be viewed with caution, especially as they contradict coverage assessments generated by actual residents. An expert opinion written by Richard Comi and Lawrence Monroe at the Center for Municipal Solutions, explains that

Propagation studies can be made to show whatever the applicant wants...The results are totally dependent upon the parameters or modeling information that is programmed into the computer. ... This is why it's critical to have the propagation studies reviewed by those experienced in the analysis of them, since most other issues stem from and depend upon what the propagation studies show. Far too frequently the propagation studies submitted reflect the 'desires' of the Company, as opposed to the actual 'needs'. In other words, the outcome was predetermined and the studies were designed to reflect this pre-determined outcome. In essence, they become "self-fulfilling prophecies".

Dr. Chris Marrison, a Princeton-trained expert on computer modelling submits a similar argument **[exhibit I]** and lists the conditions required for an independent expert to validate the results of these computer simulations. Note that none of these parameters were submitted to the Village engineer for his review.

Cellular carriers are investing in mobile broadband data capacity because they’ve identified a financial goldmine. They are racing to construct broadband towers to service 700 MHz and 2100 MHz frequency bands. BUT their financial goals do not equate to the Village’s actual needs.

And crucially, their future business plans (billion dollar investment in mobile broadband data) do not receive the same federal public utility protections as mobile voice services.

III. Conclusion: Misrepresentations, Omissions

We are confident that the Village Code grants the ZBA the legal authority to deny the Homeland Towers application based on the two arguments we've detailed above—i.e. “adverse impact on scenic resources” and failure to prove “actual need.” Local residents who are practicing lawyers have drafted an exhaustive review of these arguments. The attached legal brief provides you with ample ammunition to support these arguments by citing recent case law.

In reviewing the series of filings by Homeland Towers, our group identified additional problems with the application which we will briefly note:

- We dispute that Homeland Towers sought the least intrusive location for its tower, a requirement under Village Code. Please see our attached list of properties **[exhibit J]** of sufficient acreage that were not approached by the applicant.
- In attempting to bully and terrify Village officials into making a quick decision, Homeland Tower has misrepresented how the “shot clock” functions. Their lawyer has said in public hearings that “If the shot clock runs out the tower goes up,” causing panic to local residents and board members alike. Because the application wasn't complete until August 30 with the late submission of the Verizon RF Justification report as is required under the Code, the shot clock should run from that date and to the extent that the Board asked Homeland in September to correct or supplement the application, the shot clock should be tolled while the Village awaited a response.
- The Visual Impact Analysis submitted by Homeland Towers is not code compliant. Village Code requires a visual impact assessment, “by balloon testing or similar methodology, as well as visual simulations of the proposed tower’s siting,” to be conducted “from significant vantage points and/or historic and scenic resources.” Moreover, the Code standards require that “significant vantage points potentially impacted by the proposed facility **shall be determined by the Board**, such as views from state and local roads adjacent to the proposed site, recreation areas, housing developments and local state or national historic and scenic resources.” There is no evidence that Homeland Towers made an effort to incorporate these resources into its visual impact analysis. Indeed, the substantial evidence indicates that the visual impact analysis is **composed almost entirely of photo simulations from random viewpoints**, apparently carefully selected by the applicant in such a way as to conceal its impact. In addition, the public notice requirements for the balloon test were wholly insufficient to meet the standards under the Code. Namely, notice of the applicant’s balloon test was not published in the village’s official newspaper by the applicant as the Code requires.

- Given the recent November 22 document submission inclusive of “Property Value Report” we have not been given ample time to corroborate or refute the claims of the applicant or review the case law they cite.
- In his November 22 letter, Homeland Towers lawyer Robert Gaudio argues that because the DEC does not have permit approval authority for the Rock Ledge project, "the coastal management requirements are not applicable." This is not true. Because the DEC is not the lead agency for this project it does not have the authority to review the project's consistency with the SASS Coastal Management Program. The DEC has no authority to regulate, but this is quite different from saying that these public policy guidelines "are not applicable." We reject Mr. Gaudio's claim that the guidelines must be ignored because other state agencies aren't authorized to regulate the project. In fact, because these other agencies cannot regulate on our behalf, ZBA should consider both SASS and CMP very carefully during its deliberation.

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Legal Memo

I. GENERAL JURISDICTION OF ZONING BOARDS OF APPEAL

A. Discretionary Authority

Zoning Boards of Appeal (hereinafter “ZBA”) are afforded considerable discretion and their determinations are generally not disturbed if they have a rational basis and are supported by substantial evidence. Accordingly, ZBA decisions are shown a high degree of deference by reviewing courts. See: *Marzocco v. City of Albany*, 217 A.D.2d 872 (1995); *Androme Leather Corp. v. City of Gloversville*, 1 A.D.3d 654 (2003); *Matter of Prel 32 Realty, LLC v. Scheyer*, 96 A.D.3d 854 (2012). See, also: (New York State Department of State, Zoning Board of Appeals Manual, ZBAM [2015]). In engaging in this discretionary decision-making authority, a ZBA’s primary power is to administer and interpret the local zoning ordinance.

B. Interpretive Authority

A ZBA has a quasi-judicial function when interpreting local zoning ordinances, and should follow its own precedent when possible. See, *Knight v. Amelkin*, 68 N.Y.2d 975 (1986). Where no such prior decision exists upon which a ZBA may rely, the ZBA should attempt to glean the original intent of the legislative body that drafted the applicable local zoning ordinance. In conducting such an effort, a ZBA may call upon minutes of governing board meetings, testimony of local officials and any planning advisory committee documents which may have accompanied the enactment. See, ZBAM.

Courts have, however, allowed for broad interpretive principles in considering a ZBA’s interpretive authority and have shown deference when reviewing ZBA interpretation determinations, so long as they are found to have a rational basis. See, *Androme*. Therefore, a ZBA has broad discretion to engage in interpretation of terms not clearly defined within a local zoning ordinance, and where no prior precedent exists a ZBA has discretion to consider outside sources to assist with interpreting undefined terms not previously determined. See, ZBAM. Such outside sources include, but are not limited to, one or more zoning treatises, planning advisory documents, case law, agency reports and even the dictionary. See, ZBAM.

C. Standard for Special Use Permits

A ZBA has original jurisdiction to grant Special Use Permits (hereinafter “SUP”). *Id.* In deciding an SUP application, there must be suitable standards for its issuance set out within the local zoning ordinance. See, ZBAM. A ZBA has authority to review whether those standards are reasonable and whether they have been met by the applicant. See, ZBAM. When standards for issuance of a SUP are not clearly defined within a local zoning ordinance, it is within the scope of a ZBA’s discretion to engage in reasonable interpretation of those standards. See: *Henry Schmitt vs. Joseph P. Plonski, et al*, 215 N.Y.S.2d 170, (1961); *Aloe v. Dassler*, 278 A.D. 975, (1951); ZBAM. Accordingly, a ZBA’s power to make discretionary decisions on SUP applications, flows from consideration and interpretation of the local zoning ordinance and applicable standards contained therein.

D. Conduct of Hearings

A ZBA may grant a SUP if the requirements of the zoning ordinance are met by the applicant. The purpose of the ZBA’s inquiry is to determine whether the applicant is entitled to the relief they are requesting. See, ZBAM. The purpose of the hearing is to determine the facts of the application and consider the supporting evidence. Further, it is the ZBA’s function to hear and consider all evidence that may impact the application before it, and the hearing should be adequate and give opportunity to all interested persons to be heard. See, *Galvin v. Murphy*, 11 A.D.2d 900 (1960). Finally, a ZBA does have authority to allow limited cross-examination of parties, so long as questions remain limited to the issues before the Board. See, ZBAM.

E. Decision

A ZBA’s decision must be based on finding of fact, and should set out why the standards set out in the local zoning ordinance for a SUP application have been met or not. *Gilbert v. Stevens*, 284 A.D. 1016 (1954). A ZBA decision must include supportive findings of fact. *Id.* Conclusions may be found in a ZBA decision, but those conclusions must be based on findings of fact supported by the evidence on the record. See, ZBAM. Where opposing facts, differing expert opinions or other forms of contradictory evidence are before the ZBA, it is within the scope of a ZBA’s discretion to choose among them, so long as the ultimate decision

reached is rationally based on substantial evidence on the record. See: *Matter of Lindenthal v Town of New Castle*, 20 N.Y.S.3d 292 (2015); and, ZBAM.

II. LIMITATIONS ON ZBA JURISDICTION UNDER THE TELECOMMUNICATIONS ACT OF 1996

A. ZBA Retains Authority to Determine Telecommunication Permit Applications but is Limited to Standards of Local Zoning Ordinance

The *Telecommunications Act* of 1996 (hereinafter “TCA”) expressly preserves the authority of a ZBA to determine a SUP application for the purposes of the provision of wireless telecommunications services. “[N]othing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction and modification of personal wireless service facilities.” (*47 U.S.C. §332(c)(7)(A)*). In reaching its determination, however, a ZBA must base its decision upon substantial evidence on the record, and “local and state zoning laws govern the weight to be given the evidence.” See: *Cellular Tel. Co. v. Town of Oyster Bay*, 166 F.3d 490 (1999); *T-Mobile Northeast LLC v. Town of Islip*, 893 F. Supp. 2d 338 (2012). Thus, although “the TCA governs the ‘procedural requirements that local boards must comply with in evaluating cell site applications’ the applicable substantive standards are the ‘established principles of state and local law.’” *Id.* Accordingly, when reviewing an SUP application pertaining to a cellular tower installation, a ZBA is limited to reviewing and applying the applicable standards in the local zoning ordinance with respect to same.

B. Public Utility Standard Under New York Law – *Minimal Intrusion Test*

Where a local zoning ordinance authorizes issuance of an SUP for installation of a cellular tower, an applicant “need only show that the use is contemplated by the ordinance and that it complies with the conditions imposed” by the local law. See, *Matter of DeCarr v Zoning Bd. of Appeals for Town of Verona*, 154 A.D.3d 1311. The ZBA has the authority to deny such an application, only where there are reasonable grounds, rationally based on substantial evidence on the record. Moreover, as wireless providers are considered a public utility in New York, a

ZBA is further limited in its discretion to deny an SUP application for installation of a cellular tower. See, *Cellular Tel. Co. v. Rosenberg*, 82 N.Y.2d 364 (1993). Namely, a “telecommunications provider that is seeking [permission] for a proposed facility need only establish that there are gaps in service, that the location of the proposed facility will remedy those gaps and that the facility presents a minimal intrusion on the community.”

Accordingly, for an SUP to build a cellular tower to be granted, a ZBA must ensure that the local zoning ordinance allows for such special use, that the application meets all of the conditions, standards and requirements for such use as set out in the local law, and may not deny such an application if the applicant demonstrates a gap in service, that the proposed facility will remedy that gap, and that the facility presents a minimal intrusion on the community. See: *Orange County-Poughkeepsie Ltd. Partnership v. Town of E. Fishkill*, 84 F. Supp. 3d 274 (2015); *Site Acquisitions, Inc. v. Town of New Scotland*, 2 A.D.3d 1135 (2003). Further, “where the intrusion or burden on the community is minimal, the showing required by the utility should be correspondingly reduced.” See, *Consolidated Edison Co. v. Hoffman*, 43 N.Y.2d 598 (1978). Conversely, then, the greater the impact and intrusion into the community, the higher the burden on the applicant to show a minimal intrusion.

C. Prohibition of Service Claim – *Least Intrusive Test*

Although the TCA preserves the decision-making authority of a ZBA to deny a SUP application when based on reasonable grounds rationally based on substantial evidence on the record, such a denial must not act to prohibit or have the effect of prohibiting the provision of personal wireless services (47 U.S.C. §332(c)(7)(B)(ii)). Accordingly, the standard of review of a ZBA decision denying a SUP application for installation of a cellular tower, will be such that the applicant has shown a significant gap in wireless coverage and that the proposed facility is the least intrusive means to fill that gap. See, *Sprint Spectrum, L.P. v. Willoth*, 176 F.3d 630 (1999). Thus, for a ZBA denial determination to withstand a prohibition of service claim brought by an SUP applicant challenging the denial, the ZBA’s decision must be rationally based and supported by substantial evidence on the record that shows the applicant failed to show a significant gap and that the proposed facility was the least intrusive alternative.

D. Prohibition of Health and Environmental Considerations

The TCA expressly prohibits a ZBA from considering health or environmental implications when issuing a denial of an SUP application for a cellular tower installation (47 U.S.C. §332(c)(7)(B)(ii)). Indeed, if a ZBA's denial decision is based in part on health and environmental considerations, even where other legitimate grounds for denial are included, the decision will be overturned. The "TCA is violated when a zoning board's denial of an application for a wireless facility is based in part on those concerns." See, *Islip*. Further, "any decision actually based on environmental effects is a violation, whether other legitimate reasons factored into the decision or not." See, *T-Mobile Northeast LLC v. Town of Ramapo*, 701 F. Supp. 2d 446 (2009). Therefore, for a ZBA denial determination to withstand judicial scrutiny with respect to violation of the health and environmental consideration prohibition under the TCA, such a decision must not reference those considerations to any degree, but must rather be fully based on other legitimate grounds rationally based on substantial evidence on the record.

E. Decision Must be Rendered Within a Reasonable Time – Shot Clock Rule

The TCA requires "that requests to authorize the installation of wireless communications equipment must be acted upon in a 'reasonable period of time' (47 U.S.C. §332(c)(7)(B)(ii)) and the FCC has issued a "**Shot Clock** Order" which interprets such time period to be 150 days for review of siting applications for new facilities." See, *Islip*. The Shot Clock Order, however, is not an absolute limit. It is rather a presumption that a ZBA will issue a decision within a reasonable period of time. If a ZBA fails to make a determination within the Shot Clock period of 150 days, there comes into effect a rebuttable presumption that the ZBA has engaged in an unreasonable delay. If a ZBA can provide evidence that its delay has not been unreasonable, but rather due to special or compelling circumstances, a determination was not rendered within the 150 day period, it may successfully rebut the presumption of unreasonableness.

Upon review of this issue, and as discussed more fully herein, courts will look to whether a ZBA's delay was in spite of good faith efforts and diligence, or that the application was particularly complex in nature, as some considerations in making its determination. See, *Up State Tower Co., LLC v. Town of Kiantone*, 2017 U.S. Dist. LEXIS 35610 (2017). In addition, the presumption "only required the party against whom it is asserted (in this case, the Town defendants), to 'burst the bubble' by producing evidence to rebut it, whereas the burden of

persuasion remains with the party who benefits from the presumption (here Verizon).” See: *Bell Atl. Mobile of Rochester L.P. v. Town of Irondequoit*, 848 F. Supp. 2d 391 (2012); *Crown Castle NG East, Inc. v. Town of Greenburgh*, 2013 U.S. Dist. LEXIS 93699 (2013); *City of Arlington v. FCC*, 668 F.3d 229 (2012).

Ultimately, it has been held that a “...wireless provider would likely be entitled to relief if it showed a state or local government’s failure to comply with the time frames and the state or local government failed to introduce evidence demonstrating that its delay was reasonable despite its failure to comply.” See, *City of Arlington*. It was further held by the court in *Arlington* that “if the ... local government introduced evidence demonstrating that its delay was reasonable, a court would need to weigh that evidence against the length of the government’s delay – as well as any other evidence of unreasonable delay that the wireless provider might submit – and determine [the local government’s] unreasonable[ness].” *Id.*

F. Balance of Interests Test

Under New York law, the fact that the applicant for a SUP to install a cellular tower is a utility “calls for a balancing of interests.” See, *Rosenberg*. This balancing of interests must consider “the service needs of the utility versus the intrusion to the community.” See: *Id.*; *Hoffman*. While it is well settled that a ZBA must not “exclude a utility from a community where the utility has shown a need for its facilities ... this has never meant that a utility may place a facility wherever it chooses within the community.” *Id.* When the intrusion into the community is minimal, the burden on the utility to demonstrate need will likewise be lower. See, *Genessee Telephone Co. v. Szmigel*, 667 N.Y.S.3d 588 (1997). On the other hand, when the intrusion to the community will be substantial, so will be the burden upon the utility to demonstrate an actual need, and “it is incumbent upon [the applicant] to show compelling reasons why the proposed request is more feasible than other options.” See, *Genessee*. “While the local governing body must consider the need for the facility and balance that need against the intrusion into the community, there remains still local discretion sufficient to defeat the entitlement claim.” See, *Vertical Board v. Town of Southampton*, 84 F. Supp. 2d 379, (2000). Ultimately, courts have held that under the TCA a “reasonable decision whether to approve a permit to construct a cellphone tower requires the local government to balance the contribution the tower would make

to the availability of cellphone service against the detriments the tower presents to the surrounding community.” See, *Helcher v. Dearborn County*, 595 F.3d 710 (2010).

III. STANDARD OF REVIEW

A. Substantial Evidence Standard

A ZBA denial determination must be supported by substantial evidence on the record. Courts have held that in order for a ZBA decision to withstand judicial scrutiny, such decision must be rationally based upon substantial evidence. See, *Islip*. Substantial evidence “has been construed to mean less than a preponderance, but more than a scintilla of evidence.” See, *Omnipoint Communications, Inc. v. City of White Plains*, 430 F.3d 529 (2005). It means “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” See, *Sprint*. In addition, a court’s review must be deferential, and consider “the record in its entirety, and ‘may neither engage in ... fact-finding nor supplant the Town Board’s reasonable decision.” See, *Cellular Tel*. Ultimately, if “the record is devoid of substantial evidence to support a denial, the variance must issue. On the other hand, **[i]f the Court finds that even one reason given for the denial is supported by substantial evidence, the decision of the local zoning body cannot be disturbed.** See, *Islip*, (emphasis added).

Thus, courts have held the public testimony at open hearings before ZBA’s, in and of itself will often be insufficient to rise to the level of substantial evidence. Conclusory statements unsupported by documentation or other forms of supporting evidence, will likewise typically not be considered substantial evidence by reviewing courts. Some public testimony, however, will be accepted as substantial evidence, particularly when related to personal knowledge of local features, terrain, landscapes and sightlines as they pertain to a cellular tower application. See, *Islip*. Ultimately it is within the scope of the ZBA’s discretion to determine what substantial evidence upon which it must base its decision, and so long as such decision is rationally based on substantial evidence, a reviewing court may not disturb it even if a different reasonable conclusion could be reached.

IV. ACCEPTABLE GROUNDS FOR DENIAL

In order for a ZBA's denial determination to stand upon judicial review, such denial must be based on the substantive criteria found in the local zoning ordinance. When "evaluating a substantial evidence claim under the TCA, courts look to the applicable substantive standards under state and local law." See, *Oyster Bay*. The court will "look to the Code, which governs the Town's requirements that an applicant must meet to receive a special permit for construction of a new communications facility, and New York Law, which provides the requirements a public wireless service provider, like Verizon, must meet to establish the need for a variance." See, *Orange County-Poughkeepsie Ltd. Partnership v. Town of East Fishkill*, 84 F. Supp. 3d 274 (2015).

A. Health and Environmental Considerations Prohibited

The TCA expressly prohibits a ZBA from considering health or environmental implications when issuing a denial of an SUP application for a cellular tower installation (47 U.S.C. §332(c)(7)(B)(ii)). Indeed, if a ZBA's denial decision is based in part on health and environmental considerations, even where other legitimate grounds for denial are included, the decision will be overturned. Therefore, for a ZBA denial determination to withstand judicial scrutiny with respect to violation of the health and environmental consideration prohibition under the TCA, such **a decision must not reference those considerations to any degree**, but must rather be fully based on other legitimate grounds rationally based on substantial evidence on the record.

B. Property Values

Concerns over negative impacts on property values are a legitimate basis upon which a ZBA may deny a SUP application for installation of a cellular tower. Courts will not consider conclusory statements by the public and even licensed real estate brokers to constitute substantial evidence. Comparative market analysis has, however, been held to be substantial proof of property valuation effects. In addition, there has been some discussion within the case law, that there may be a "proxy effect" of declining property value concerns acting as cover for the

“impermissible ground of environmental effects,” See, *Oyster Bay*, and as such courts have begun to view property value grounds with increased scrutiny.

As the Nelsonville Zoning Code appears to be silent on whether an applicant must take measures to ensure a proposed wireless facility will not detrimentally impact property values, it remains unclear whether concerns about local property value impacts can serve as an acceptable ground for denial in the instant matter.

C. Aesthetic Concerns

Concerns over negative impacts on local scenic, cultural and historical resources are a legitimate basis upon which a ZBA may deny a SUP application for installation of a cellular tower. It is well settled within the jurisprudence, that a ZBA denial based upon aesthetic concerns, where supported by substantial evidence, will not be overturned upon judicial review. See: *Islip; Omnipoint*. Objections on aesthetic grounds must “articulate specifically how the proposed cell sites would have an adverse aesthetic impact on the community.” See, *Oyster Bay*. A decision denying a SUP application on aesthetic grounds must show, based on substantial evidence that: “(1) the residents will be able even to see the antennae; and (2) there will be an actual negative visual impact on the community.” *Id.* It is wholly insufficient for a denial decision to be based merely on generalized aesthetic concerns expressed by the community. Conversely, where “aesthetic objections raised by neighbors who know the local terrain and the sightlines of their own homes,” such objections have been held to constitute substantial evidence. See, *Omnipoint*.

Other substantial evidence can include beautification efforts in the community or “**the actual character of the immediate neighborhood.**” See: *Islip; T-Mobile Central, LLC v. Unified Government of Wyandotte County*, 546 F.3d 1299 (2008), (emphasis added). In addition, courts have upheld denials based on aesthetic grounds, where the ZBA “questioned the accuracy of the visual impact analysis in light of the fact that ‘**residents were not invited to participate in the study, or notified of it.**’” See, *Omnipoint*, (emphasis added). Ultimately, the Second Circuit held in the *Omnipoint* decision that:

Given the 150-foot tower would rise to three times the height of the tallest evergreen tree and would be half again as tall as any other tree in the area, the Board could reasonably conclude (especially given express testimony to that effect) that the tower would be widely

visible. In addition, the Board received substantial evidence of the tower's adverse aesthetic impact. We have no difficulty concluding that the Board's rejection was based on reasonable and substantial evidence. *Id.*

D. Nelsonville Zoning Code §188-70 A.(6) - Aesthetic Standards

Pursuant to §188-70 A.(6) of the Nelsonville Zoning Code (hereinafter "the Code"), no special use permit for a communications tower or a communications antenna installation shall be granted unless an applicant can show "[t]hat the proposed antenna installation or tower will not have a significant adverse impact on scenic or historic resources." The requirement further demands that "[i]f a significant adverse visual impact is identified, the applicant shall demonstrate that suitable landscaping, buffering or other techniques will be used, and that they are able to minimize such impacts to a level of insignificance."

As the negative impact on scenic and historic resources by installation of a communications tower is contemplated within the Code, it is within the purview of the ZBA to consider this ground as a basis for denial of an application if supported by substantial evidence. As terms such as "insignificance", "significant adverse visual impact" and "scenic or historic resources" are not defined within the Code, it is properly within the ZBA's interpretive discretion to look to outside sources to assist with defining those terms' meanings and applications. For example, insignificance has been defined by the Cambridge dictionary to mean "not important or thought to be valuable; small or not noticeable, and therefore not considered important." The Oxford dictionary further defines insignificance to mean "the quality of being too small or unimportant to be worth consideration." Understanding the meaning of terms such as "adverse visual impact" and "scenic resources" as contemplated in the Code, requires looking elsewhere.

E. Nelsonville's Inclusion Within a Scenic Area of Statewide Significance

Nelsonville falls within the Cold Spring Subunit of the Hudson Highlands Scenic Area of Statewide Significance (hereinafter "SASS", or "SASS Designation"). The proposed tower site falls directly within this SASS. This SASS Designation flows directly from New York State's *Coastal Management Program* (hereinafter "CMP"), which among other things, seeks to protect "New York's landscape tradition [which] includes appreciation of both the natural and

the cultural landscape and its coastal scenic landscapes.” See, New York State Department of State, Designation of Scenic Areas of Statewide Significance, DSASS [2004]. The SASS Designation goes on to state as a basis for the public policy that “[c]oastal landscapes possess inherent scenic qualities, including the presence of water, dramatic shorelines, expansive views, historic landings, working landscapes and great estates.” DSASS. Further, “[i]n recognition of the scenic value of the coast, the New York State Coastal Management Program includes public policies for the protection of this resource.” DSASS. To emphasize the significance of this valuable resource, the DSASS goes on to state that “[t]he region has long been recognized as a scenic area of national importance. It inspired the Hudson River School of Painting in the nineteenth century, the first indigenous American art movement, and the American Romantic Landscape Movement which subsequently spread nationwide and influenced designed landscapes and parks throughout the country. Clearly, the valuable scenic, historical and cultural resources that the DSASS seeks to protect, are within the ZBA’s discretion to consider when attempting to understand and define terms such as “scenic resources” within the Code. Accordingly, an examination of the public policies within the DSASS and the specific scenic resources it seeks to protect, are necessary of further analysis.

i. DSASS Policy 24

The proposed tower installation falls within the Cold Spring subunit of the Hudson Highlands SASS, and as such is subject to Policy 24. The primary objective of Policy 24 is to “provide for the designation and protection of scenic areas of statewide significance.” DSASS. Policy 24 states that:

... impairment of a landscape’s scenic quality can occur in two principle ways: 1) through the irreversible modification or destruction of landscape features and architectural elements which contribute significantly to the scenic quality of the coast, and 2) **through the addition of structures which reduce views or are discordant with the landscape because of their inappropriate scale, form, or construction materials.** (Emphasis added).

In addition, Policy 24 recommends that any proposed development action shall first be reviewed under delineated guidelines prior to approval. These guidelines are meant to establish whether the proposed development would “affect a scenic resource of statewide significance ... [and] ...

be likely to impair the scenic beauty of an identified resource.” DSASS. Further recommendations of Policy 24 include, but are not limited to:

- siting structures ... in ... inconspicuous locations to maintain the attractive quality of the shoreline and retain views to and from the shore
- ... orienting structures to retain views
- ... blend structures into the site, and obscure unattractive elements
- using appropriate materials, in addition to vegetation, to screen unattractive elements; and,
- using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape. DSASS

To be clear, Policy 24 is not a prohibition on development outright, but rather seeks to guide the siting and styling of development such that it works with the existing scenic resource as opposed to irrevocably marring it. Indeed, Policy 24 represents “the public policy of the State within the coastal area ... to achieve a balance between economic development and preservation that will permit the beneficial use of coastal resources while preventing the ... impairment of scenic beauty.” DSASS. Ultimately, the “narratives prepared for each SASS describe the character and scenic quality of the SASS landscape, **providing guidance to the public and regulatory agencies** as to which landscape elements should be protected and which actions could impair the scenic quality of the SASS.” DSASS, (emphasis added).

ii. Application of Policy 24

A SASS Designation gives special consideration to and protection from “federal or State actions which could impair the scenic quality of the SASS.” DSASS. As part of such a Designation, Policy 24 of the CMP “now applies to those areas encompassed by the SASS designation.” DSASS. As the proposed tower installation site falls within the Hudson Highlands SASS and the corresponding Cold Spring subunit, it is clear that the applicable public policy sought to incorporate the Policy 24 guidelines into any approval process for this proposed development.

Although additional levels of protection for SASS locations can be granted to municipalities “which prepare Local Waterfront Revitalization Programs (LWRP)”, a municipality’s decision not to incorporate such an LWRP does not prevent a local authority from

considering the Policy 24 objectives when making decisions pertaining to proposed development that might affect identified scenic resources. To the contrary, “[d]esignation of the SASS does not impinge on local government decisions.” DSASS. Thus, under an operating LWRP, a municipality will be bound by the SASS criteria it sets out for itself with respect to proposed development such as siting of cellular towers. While it is clear that additional protective measures available under an LWRP, such as Consistency Review, are not applicable in the absence of an LWRP, it does not mean that a local authority is prevented from incorporating the public policy guidelines of Policy 24 within its review of proposed development projects.

Indeed, where an LWRP has not been incorporated, a local authority will continue to retain discretion to employ the Policy 24 guidelines with respect to development decisions as it sees fit. In short, under an LWRP a local authority must incorporate Policy 24 when reviewing development proposals, whereas in the absence of an LWRP, reliance on Policy 24 remains at the local authority’s discretion with respect to the impact of proposed development on identified scenic resources.

Alternatively, if it is found that an LWRP is required before a local government may consider the Policy 24 guidelines with respect to development decisions, it is submitted that the ZBA has interpretive discretion to look to the policy for guidance when interpreting specific terms in the Code that it must apply. As stated above, terms such as “adverse visual impact” and “scenic resources” remain undefined in the Code, and as such it is wholly within the ZBA’s discretion and jurisdiction to turn to the DSASS and Policy 24 for guidance in interpreting and applying these terms and their meanings in reaching the development decisions before it, and is in fact encouraged to do so as a matter of public policy. Ultimately, the standard remains whether such reliance by a ZBA on Policy 24 to inform its decision is rationally based. It is a matter of New York State public policy that development proposals falling within a SASS be scrutinized according to Policy 24 guidelines. Not only is it rationally based for the ZBA in the instant matter to consider that policy when evaluating the potential adverse impact on identified scenic resources, to do otherwise would undermine the objectives set out in the very Code it must apply (see, §188-70 A.(6)), and the public policy that guides it.

iii. Identified Resources in the Cold Spring Subunit

The Hudson Highlands SASS identifies a number of resources deemed to be of scenic and historical significance. Indeed, this SASS has been accredited by the State with aesthetic significance “by virtue of the combined aesthetic values of landscape character, uniqueness, public accessibility and public recognition.” DSASS. Crucially, “[t]here exists in the SASS unusual variety as well as unity of major components and striking contrasts between scenic elements. The SASS is **generally free of discordant features**. The scenic quality of the Hudson Highlands SASS is significant.” DSASS, (emphasis added). The report goes on to state that “the Hudson Highlands SASS exhibits an unusual variety of major components. The main variety lies in the topography. The SASS is dominated by a low, rugged mountain range, split by the narrow and deep fjord-like passage of the Hudson River.” DSASS. In addition, with respect to the specific region at the heart of the instant matter, “[i]n the eastern Highlands the Town of Philipstown contains numerous historic estates, farmsteads, the hamlet of Garrison and the well-preserved historic waterfront of the Village of Cold Spring... The SASS also includes numerous historic structures ... [and the] ... Bear Mountain Bridge, Palisades Parkway, and Storm King Highway are all **examples of engineering design which complement the natural formation of the landscape**.” DSASS, (emphasis added). Finally, the report identifies that:

The Hudson Highlands SASS is a landscape rich in symbolic value and meaning, resulting from historic events, folklore, art and literature, and influencing public perception of the area. The area was at the center of the Romantic Movement that began before the Civil War and became a pervasive movement that affected all aspects of art and society in the region, including architecture, literature, painting, recreation and tourism. This has led to **a continuum of environmental and scenic appreciation concerned with the Hudson Highlands that runs through the last two centuries**. (Emphasis added).

Thus, it cannot be denied that the cultural, historic and scenic importance of this region is significant and can clearly be distinguished from other areas or regions where it is less so, particularly with respect to proposed telecommunications development. The site of the proposed development in the instant matter falls directly within this scenic and historic landscape. As such, there must be a high degree of scrutiny of any adverse impact upon them as a result of the development as proposed.

Within the Hudson Highlands SASS, the Cold Spring Subunit (hereinafter “Subunit”) identifies a number of specific scenic, cultural and historic resources that the policy objectives of the DSASS seek to preserve. The Subunit is composed of the Villages of Cold Spring and Nelsonville. Generally described by the DSASS, this “[S]ubunit rises gently to the sloping valley hillsides on the flanks of Bull Hill and along the valley of the Foundry Brook... and rises up the hillside to the Village of Nelsonville, situated on the southern flanks of Bull Hill.” DSASS. More specifically, the DSASS goes on to identify that the “Village of Nelsonville, stretching up the hillside above Cold Spring, has a mix of historic properties. The First Baptist Church of Cold Spring, completed in 1833, is the only frame church of distinction in the Hudson Highlands.” DSASS. In addition, other structures of historic significance include the “Fish and Fur Club, the Hustis House, the Italianate residence at 3 Crown Street, the clapboard residence at 249 Main Street, the H.D. Champlin and Sons Horseshoeing and Wagonmaking shop on Main Street and the elaborately decorated J.Y. Dykman’s Flour and Feed Store.” DSASS. These are only but some of the significant scenic, historic and cultural resources identified under the DSASS. In determining the undefined terms of the Code such as “scenic or historic resources”, it must be deemed reasonable and rationally based for the ZBA to turn to these specific identified resources as clear examples.

Perhaps most significantly, the DSASS goes on to generally determine how “[t]here are no discordant features visible” within the Subunit. DSASS. The report goes on to describe the scenery by stating:

Views from the river are of the historic waterfront, including the docks, wharf, residences and the restored Chapel of Our Lady, and of Main Street rising up the wooded hillsides of the subunit. There is a strong composition of many scenic components with many interesting focal points, including the numerous and varied structures located on the estates which dot the wooded hillsides. DSASS.

The DSASS goes on to describe that the location of this Subunit is unique in that it combines “a very historic and well-preserved riverfront village center with some of the Hudson River’s most dramatic topography.” DSASS. Also identified as unique within the Subunit, is the extent to which public access to these exceptional resources is available. These identified resources are “heavily used by the public and provides spectacular views of the Hudson River and the surrounding uplands of the Hudson Highlands.” DSASS. With respect to the Cold Spring

waterfront, the report states “[t]he park is the focus of public waterfront activity for the region around Cold Spring and is one of the most accessible public spaces on the Hudson River in Putnam County.” DSASS. With respect to Nelsonville, the report identifies “nine properties included in the Hudson Highlands Multiple Resource Area listed on the State and National Registers of Historic Places.” DSASS. In its ultimate conclusion, the DSASS states succinctly that the Subunit “is included in the Hudson Highlands SASS because it is of **high scenic quality**.” DSASS, (emphasis added). Accordingly, it is within the ZBA’s discretion to consider these identified scenic and historical resources when determining whether the proposed cellular tower installation will have an adverse visual impact upon them.

F. Applicant’s Failure to Comply with Local Zoning Ordinance

The applicant in the instant matter has failed to comply with the requirements of the Code. It is well settled that an applicant for a SUP to construct a telecommunications tower bears the burden of meeting the requirements under the local law that governs the SUP’s issuance. See, *Fishkill*. A ZBA’s decision to deny a SUP application will be upheld where an applicant fails to meet the relevant application standards within the local ordinance. See: *Islip; Omnipoint; Fishkill*. Indeed, when “evaluating the evidence, local and state zoning laws govern the weight to be given the evidence ... and the TCA does not affect or encroach upon the substantive standards to be applied under established principles of state and local law.” See, *Oyster Bay*. A local Board’s jurisdiction is thus properly applied to the decision-making authority contained within the local ordinance. Here, the applicant’s failure to demonstrate with substantial evidence that it has complied with the standards for issuing special permits as set out under § 188-70 of the Code warrants denial of the application in its entirety. Where an application is so denied, the applicant who thereafter pursues an “effective prohibition of services” claim, will bear a heavy burden “to show from language or circumstances not just that *this* application has been rejected but that further reasonable efforts are so likely to be fruitless that it is a waste of time even to try.” See: *Town of Amherst v. Omnipoint Communications Enterprises, Inc.*, 173 F.3d 9 (1999); *Up State Tower Co., LLC v. Town of Kiantone*, 2017 U.S. Dist. LEXIS 35610(2017). Accordingly, a ZBA need not fear issuing a denial of a non-compliant application so long as such denial is rationally based on the applicant’s failure.

i. Applicant's Visual Impact Analysis is Not Code Compliant and Must be Discounted

Courts have held that a “Board [is] free to discount [an applicant’s] expert’s studies and conclusions if the studies were conducted in a defective manner, or if other substantial evidence in the record ... supported a different conclusion.” See, *Fishkill*. The court in the *Whiteplains* decision, further stated that “the board ‘was free to discount the [applicant’s] study because it was conducted in a defective manner,’ specifically, ‘without notice to the [b]oard or community, [and] the observation points upon which its conclusion was based were limited to locations accessible to the public – mostly public roads.’” Thus, where an applicant fails to conduct a visual impact analysis in accordance with the standards set out in the local ordinance, it is proper for a ZBA to discount said analysis in support of a denial determination.

In the instant matter, Section 188-70 A.(2) of the Code requires that no special permit for a communications tower shall be granted absent a finding that “the application meets the requirements of ... § 188-68 for a new tower, including the siting objectives.” Sub-section 188-68 A.(12) sets out the visual impact analysis requirements that an applicant must meet before approval of a cellular tower application can be granted. Significantly, the sub-section requires a visual impact assessment, “by balloon testing or similar methodology, as well as visual simulations of the proposed tower’s siting,” to be conducted “from significant vantage points and/or historic and scenic resources.” Moreover, the Code standards require that “significant vantage points potentially impacted by the proposed facility shall be determined by the Board, such as views from state and local roads adjacent to the proposed site, recreation areas, housing developments and local state or national historic and scenic resources.” It is clear from the record, that the applicant’s visual impact analysis fails to meet these standards.

First, there is no evidence on the record that the photo simulations as part of applicant’s visual impact analysis were taken from “significant vantage points and/or historic and scenic resources ... determined by the Board” as required. Indeed, applicant’s photo simulations relied upon for their visual impact analysis were submitted with the initial application, so could not have properly been prepared with the Board’s input as required under the Code. Thus, the photo simulation component to the applicant’s visual impact analysis is not compliant with the Code, is

wholly deficient and must be properly discounted by the ZBA in making its determination on the application.

Second, with regard to the scenic and historical resources identified above in the discussion of such within the DSASS, there is no evidence on the record that the applicant made any effort to incorporate these resources into its visual impact analysis. The applicant identified the proposed site as falling within a SASS in its initial filings, so it cannot be said that they were not aware of the requirement to incorporate these “identified resources” as part of their visual impact analysis. Indeed, the substantial evidence on the record, indicates that the applicant’s visual impact analysis is composed almost entirely of photo simulations from random viewpoints, apparently carefully selected by the applicant in such a way as to conceal its impact. With the exception of one photo simulation, taken from the historic Cold Spring Cemetery gatehouse, which has been qualified to be listed as a national historic site, the photo simulation component to the applicant’s visual impact analysis is completely non-compliant with the standards required under the Code. As such, and in keeping with the jurisprudence on this issue, the ZBA may rightfully discount this portion of the applicant’s visual impact analysis.

Third, the evidence on the record is clear that the applicant failed to comply with the Code’s requirements with respect to balloon testing. Section 188-68 A.(12) clearly states that any balloon test or similar methodology used in performing a view-shed analysis “shall be approved by the Zoning Board prior to preparation. The Zoning Board shall direct the applicant to provide public notification in the village’s official newspaper, of the assessment, including date, time and testing location, at least seven and no more than 14 days in advance of the test date.” Further, the Code requires that the Board determine the significant vantage points from which the view-shed analysis shall be conducted. There is no substantial evidence on the record that the Board determined the vantage points for the view-shed analysis as required under the Code. In addition, the public notice requirements for the balloon test were wholly insufficient to meet the standards under the Code. Namely, notice of the applicant’s balloon test was not published in the village’s official newspaper by the applicant as the Code requires. In addition, the record is clear that the public notice provided by the Village, occurred less than 7 days in advance of the testing, and actually noticed the incorrect test date in one of the village’s two official newspapers. Thus, the public notice requirement under the Code was not met by the applicant.

Courts have held that where an applicant did not comply with the balloon testing requirements under the Code, the correct remedy was to remand the matter to the ZBA for compliance with the Code and additional time for the ZBA to make a determination based on the results. See, *Town of Amherst*. Where the default in following the local zoning ordinance's balloon testing requirements was the result of the Town's failures, courts have ruled that the determination of approval of the tower application should not have occurred. See, *Matter of Kastan v. Town of Gardiner Town Board*, 906 N.Y.S.2d 773 (2009). Indeed, the court in *Kastan* held it was "striking how many provisions in the Town's own Zoning Law were not followed or were violated, and without sufficient or any explanation, including those relating to visual assessment..."

ii. Applicant has Failed to Demonstrate an Actual Need Under the Code

Section 188-68 A.(1) of the Code states that "special permits are to be based on actual need". Further, the Code states that among the standards required for issuing a special permit, the applicant must demonstrate "an actual need for construction of the new tower." As is fully detailed below, the applicant has failed in several respects to meet its burden under the Code to show an "actual need" for construction of the new tower.

a. The TCA Does Not Apply to Gaps in Wireless Broadband (i.e. Data) Service

With regard to what constitutes a "commercial mobile service" as contemplated under the TCA, and thus subject to its regulations, courts have clearly held that "mobile wireless broadband Internet access is not a 'commercial mobile service' under the TCA. Under such ruling, the TCA simply does not apply to broadband information service." See, *Clear Wireless LLC v. Building Department of Lynbrook*, 2012 U.S. Dist. LEXIS 32126 (2012), citing favorably, *Arcadia Towers LLC v. Colerain Township Board. of Zoning Appeals*, 2011 U.S. Dist. LEXIS 66623 (2011), and, *WWC Holding Company v. Sopkin*, 488 F.3d 1262 (2007). As the court noted in *Clear Wireless*, "pursuant to Section 332(c)(7), the limitations imposed by Congress on municipal zoning authority relate solely to decisions regarding "personal wireless service facilities", which are defined as "facilities for the provision of personal wireless services". 47 U.S.C. § 332(c)(7)(C)(ii). Significantly, the court in *Sopkin* affirmed the FCC's

determination that “the FCC found that VoIP services are internet services, and that Congress specifically intended internet services to be treated differently than either mobile communications or traditional wireline services.” The court in *Arcadia* expanded upon this holding when it ruled:

In their briefing and at the hearing, Plaintiffs argue that the TCA does not apply to broadband communication based on a subsequent 2009 FCC Declaratory Ruling, which Plaintiffs contend signals a change in the FCC’s view, such that broadband communication should be entitled to protection under the TCA. However, the Court has scrutinized such opinion, and agrees with Defendants that it does not overrule the 2007 ruling, nor does it hold that wireless broadband communication services are covered by the TCA.

The court in *Arcadia* went on to affirm:

... the FCC classified wireless broadband Internet access services such as Clearwire's 4G service as an "information service", and concluded that it was neither a "telecommunications service" nor a "commercial mobile service". Thus, based on the FCC's own definition of wireless broadband Internet access service, because the Proposed Facility would be used solely to provide an "information service", it does not qualify as a "personal wireless service facility" subject to the limitations on local zoning authority in Section 332(c)(7)(B).

To put it bluntly, the jurisprudence is clear that “the TCA simply does not apply to [wireless] broadband information service.” Accordingly, if the TCA does not apply to wireless data services, it is academic that its strict applications such as the “Shot Clock Order” and “effective prohibition of service” claims, likewise do not apply.

Conspicuously absent from applicant’s submissions in the instant matter, is any reference to a gap in personal wireless communications coverage (i.e., voice and text). Indeed, the entirety of applicant’s submissions on the record in support of showing the requisite “actual need” under the Code, pertain to “wireless broadband” services. To be clear, personal communications services, as contemplated and regulated under the TCA, fall within the 850 MHz frequency bandwidth, commonly referred to as “850 MHz cellular.” See, <https://www.signalbooster.com/pages/what-are-the-cellular-frequencies-of-cell-phone-carriers->

in-usa-canada Applicant provides no substantial evidence whatsoever in support of its claim of a gap in coverage at the 850 MHz cellular frequency. Rather, the entirety of applicant's submissions on the record relate to purported gaps in wireless broadband frequencies such as those within the 700 MHz, 1900 MHz and 2300 MHz bandwidths. As discussed above, the TCA does not contemplate nor regulate these frequencies as "personal wireless services" and as such the applicant has failed to demonstrate an actual need as contemplated under the Code. Further, the record is silent in support of applicant's claim that there is a gap in coverage with respect to cellular service within the 850 MHz bandwidth, and as such the applicant has filed to demonstrate the requisite actual need and the application must be denied in its entirety.

b. Determining a Gap in Coverage is Fact Based

Assuming that the TCA is held to apply to applicant's claims for actual need, or purported gaps within the wireless broadband frequencies, which is not here admitted but denied, it is necessary to briefly examine how courts have defined what constitutes a significant gap in coverage. It is well-settled within the jurisprudence that actual need refers to a significant gap in cellular service. Courts look at a variety of factors when determining whether a significant gap exists, and it is a "'fact-bound' question that requires a case-by-case determination." See, *Omnipoint Holdings, Inc., v. City of Cranston*, 586 F.3d 38 (2009). Courts will consider factors such as "the physical size of the gap, the number of wireless users affected by the gap, the location of the gap and drop call or failure rates." *Id.* Other considerations may include whether the area is active or passive, rural or urban, or whether there are high-traffic roads in the vicinity. See, *Fishkill*. Further, the Second Circuit in *Willoth* provided guidance with respect to "need for service" by stating:

Where the holes in coverage are very limited in number or size (such as the interiors of buildings in a sparsely populated rural area, or confined to a limited number of houses or spots as the area covered by buildings increases) the lack of coverage likely will be de minimis so that denying applications to construct towers necessary to fill these holes will not amount to a prohibition of service.

In addition, the Ninth Circuit Court of Appeals found that in *Metro PCS vs. San Francisco*, 2005, “[t]he TCA does not assure every wireless carrier a right to seamless coverage in every area it serves,” and that the inability to cover “a few blocks in a large city” is, as a matter of law, not a “significant gap.” Finally, the court in *Willloth* reasoned that a “gap in coverage” must be viewed from the cell customer’s perspective rather than that of the provider.

The application before the ZBA concerns an alleged gap in the Village of Nelsonville and the surrounding area. Nelsonville is a small rural village with a population of 623 persons, according to the most recent national census. Applicant contends that there is a “significant gap” particularly in the “target area” along Route 301, and Route 9D, and the surrounding local roads. In *Fishkill*, the court reasoned that a significant gap was evident along a portion of the Taconic State Parkway, a major highway bearing heavy commuter traffic numbering in the multiples of tens of thousands of daily travelers. Here, the New York State Department of Transportation classifies the roads within the applicant’s target area as “Rural: minor arterial” and “Rural: major collector” respectively, with total average daily annual commuter traffic numbering approximating 8,000.” See, <https://www.dot.ny.gov/tdv>.

Thus, relative to findings of a significant gap in the case law with regard to roadways, it can hardly be said that the applicant’s target area is heavily trafficked, or that a significant gap exists therein.

The applicant also bases its claim of need in part on an assertion that the alleged gap encompasses a physical area of approximately 1.65 miles by 1.32 along Routes 301 and 9D. Although such a physical area has been deemed sufficient by courts to constitute a significant gap, such holdings have typically been applied where these areas are found in more urban/sub-urban, heavily populated or heavily trafficked areas. In the instant matter, the applicant has failed to meet its burden by substantial evidence on the record that the physical area of the gap, in and of itself, constitutes an “actual need” as contemplated under the Code. Indeed, that the physical area claimed by the applicant to constitute an actual need falls squarely within a lightly populated, rural setting, interspersed with vast areas of passive space such as state parks, a large cemetery, and vacant properties, in addition to roadways that are rural in nature and not heavily trafficked, supports a finding that under the “fact-bound” criteria laid out in the jurisprudence, there remains no significant gap to be filled. Accordingly, the applicant has failed to meet its “actual need” burden under the Code, and the application must be denied in its entirety.

c. Applicant's Coverage Data Methodology is Flawed

Assuming that the it is held that the TCA applies to the instant application and that the applicant has met its "actual need" burden under the Code, which is not here admitted but denied, the applicant has done so by using flawed methodology. Courts have held that to substantiate a claim of actual need or in support of a finding of a significant gap, a claimant must put forth substantial evidence by way of "radio frequency analyses, propagation maps, and drive test data." See, *Fishkill*. Indeed, the industry standard in assessing cellular signal strength and coverage data, is drive test analysis. See, Supplemental Report of RF Consultant, Dick Comi. Further, courts have held that an applicant's gap coverage modeling and propagations may be discredited by a Board where the decision to do is supported by substantial evidence on the record. See, *Oyster Bay*.

The applicant has failed to provide any drive test data to demonstrate a gap in personal cellular services as contemplated by the TCA. Further, the applicant's modeling software is flawed and insufficient to constitute substantial evidence to support gaps in coverage for any mobile frequency. See, *Software Engineer Report*, by Chris Marrison, PhD. Indeed, the software modeling methodology that applicant seeks to rely on is subject to manipulation such that virtually any desired result might be propagated, depending on the specific data inputs and user application. *Id.* Further:

Propagation studies can be made to show whatever the applicant wants...The results are totally dependent upon the parameters or modelling information that is programmed into the computer. Garbage in - Garbage out! This is why it's critical to have the propagation studies reviewed by those experienced in the analysis of them, since most other issues stem from and depend upon what the propagation studies show. Far too frequently the propagation studies submitted reflect the 'desires' of the Company, as opposed to the actual 'needs'. In other words, the outcome was pre-determined and the studies were designed to reflect this pre-determined outcome. In essence, they become "self-fulfilling prophecies". See, www.telecomsol.com

As such, it is wholly within the ZBA's discretion to discredit applicant's propagation data and deny the application upon which it is based.

**d. Applicant has Failed to Make a Good Faith Effort to
Locate the Tower in the Least Intrusive Location**

Assuming it is held that the TCA applies to the instant application, and that the applicant has demonstrated an actual need for cellular service as contemplated under the Code, which is not here admitted by denied, the applicant has failed to demonstrate that all good faith efforts to locate the proposed tower in the least intrusive location have been exhausted. Courts are clear that under a “prohibition of services claim,” for an applicant to satisfy the requirement that the proposed tower site be located in the least intrusive location, the applicant must engage in due diligence and a good faith effort. See, *Oyster Bay, Fishkill*.

An applicant, however, “need not evaluate every potential alternative in order to demonstrate that its proposal meets the least restrictive means test.” See, *Oyster Bay*. The law only requires that an applicant engage in “a good faith effort to evaluate alternative sites.” See, *N.Y. SMSA Ltd. Partnership v. Village of Floral Park Board of Trustees*, 812 F. Supp. 2d (2011).

There is no substantial evidence on the record in favor of a finding that applicant has engaged in a good faith effort to consider alternate sites that are less intrusive than the one proposed. Indeed, very little exists on the record to describe in any detail how the proposed site at 50 Fishkill Road, as but one example, from a technical standpoint would not be a viable option. The Town’s own RF analyst, Mr. Ronald Graiff, in a November 7, 2017 correspondence, states “[w]hile once again, there is no direct comparison of standalone coverage, it might very well appear that the Fishkill Road site, even at 210 feet provides inferior coverage.” Of note, is the fact that Mr. Graiff provides little technical support in reaching this conclusion, and seemingly bases it on insufficient data when he states there “is no direct comparison of standalone coverage.” With respect to the analysis of the report itself, it merely summarizes the purported deficiency of the 50 Fishkill site by concluding “this alternative site does not satisfy the objectives of the proposed site.” See, *Freehan Report*.

It must be noted that there is no requirement under law that an alternative site provide better or even equal coverage as that of the site proposed. In fact, it is quite the contrary. As was discussed above, the “TCA does not guarantee 100% coverage” and “the fact that an alternative site leaves a small gap in coverage does not ‘unequivocally establish that the proposed monopole is the least intrusive means or even the only feasible plan.’” See, *Fishkill*, citing, *Site Tech Group*

Limited v. Board of Zoning Appeals of Town of Brookhaven, 140 F. Supp. 2d 255 (2001). The legal test therefore, is one of intrusiveness.

Continuing with respect to the 50 Fishkill alternative, counsel for the applicant made conclusory statements on the record, without any substantial evidence in support, that even at a height of over 200 feet, a tower at the Fishkill site would need to be painted red and white and comply with FAA lighting regulations. There is no substantial evidence on the record to support these conclusory claims, and as such the applicant has failed to meet its burden that the proposed site is the least intrusive location.

As a practical matter, the proposed site will tower over the Cold Spring Cemetery, perhaps the most sacred space in this community. This is where the community goes to pray for loved ones, to pay respects to deceased family members and quite frankly, to reflect on our own mortality. It is a spiritual place. It is where this community goes on Memorial Day to honor those who have served and sacrificed in defense of this country and all it stands for. It is quite literally, the soul of this community. The proposed tower will loom as a glaring monstrosity over this sacred space; an eyesore that will permanently and significantly detract from the peace and tranquility that a place of rest such as this is meant to elicit. This is not a golf course, or a public park, or a stand of trees beside an expressway. Surely, there are available alternatives to the applicant that would not be so intrusive as the one they have proposed.

V. APPLICANT'S ERRORS, OMISSIONS AND MISREPRESENTATIONS

Within the instant application, there are a number of errors, omissions and misrepresentations that warrant its denial. These errors and misrepresentations include, but are not limited to the following: the applicant has misrepresented the law with respect to the application of the TCA to this matter, and accordingly to any limitations the TCA would impose upon the ZBA's decision-making authority (i.e., the "Shot Clock Order", "effective prohibition claim", etc.); assuming it is found that the TCA does apply to the instant application, which is not here admitted but denied, the applicant has further misrepresented when the application was complete, and thus when the "Shot Clock" would have started to run; the applicant has misrepresented the law with respect to any "prohibition of service" claim that might be raised

following a denial of the instant application; and, the applicant has further misrepresented the law with respect to the Code's required showing of "actual need."

A. Applicant Has Misrepresented the Application of the TCA

As set out in detail above, the TCA has been held to apply only to personal wireless communications service, i.e., cellular service at the 850 MHz bandwidth. Courts have clearly held that the TCA, and by extension the limitations it imposes upon a local zoning board's decision-making authority, does not extend to wireless broadband (i.e. data) services, including voice over data coverage. Counsel for the applicant, Robert D. Gaudioso, by way of letter dated November 22, 2017, asserts "there is no legal basis for the Zoning Board to consider whether the service being provided is voice as opposed to broadband data service as both forms of service are telecommunications services protected by ... the Telecommunications Act." As per the case law detailed above, it would seem that Mr. Gaudioso is the one without supporting legal authority to make this conclusory claim. The case law is clear that the TCA does not apply to broadband data service, and Mr. Gaudioso fails to cite to any legal authority to the contrary as has been done herein. Accordingly, this statement is a misrepresentation of the law and should be wholly discounted by the ZBA.

B. Applicant Has Misrepresented the TCA "SHOT CLOCK ORDER"

Assuming it is held that the TCA does apply to the instant application, which is not here admitted but denied, the applicant has misrepresented how it would be applied here. As detailed above, the case law is clear that the Shot Clock operates to ensure a local zoning board does not engage in unreasonable delay in reaching a decision on a SUP application for a cellular tower installation. The Shot Clock does not operate as a fixed deadline that mandates automatic granting of an application upon expiration. Rather, it operates as a presumption that if the ZBA does not issue a decision within 150 days from filing of a complete application, there will be a rebuttable presumption that the ZBA acted unreasonably. If the ZBA presents evidence that it acted reasonably, and in good faith, the burden then shifts to the applicant to bring forward evidence to the contrary.

In the instant matter, it cannot be said that the ZBA has acted unreasonably. At every turn of this application process, the ZBA has acted with courtesy and accommodation toward the

applicant. The ZBA has made special provisions, such as holding review of the applicant's submissions in joint session between the ZBA and Planning Board. The ZBA has further facilitated the application process by working with the Village of Nelsonville to consider alternative siting locations such as 50 Fishkill Road and Secor Street, all with great effort, efficiency and speed. It can hardly be said that the ZBA in the instant matter has acted unreasonably or with any undue delay whatsoever. Indeed, if one were to describe succinctly the efforts of the ZBA here, it must be said that they have acted on all accounts in the utmost good faith.

Can the same, however, be said of the applicant? Counsel for the applicant has said on the record before the ZBA, to the effect, that once the Shot Clock runs out the tower goes up. It is sufficient here to say that such an unsupported conclusory statement is pure fiction.

Finally, courts have ruled that an application for a special permit for a cellular tower installation is not complete until the required propagation data, if so required by the local code, has been submitted. The Code in the instant matter requires that an application for a cellular tower installation include such RF propagation data. See, *Code*, § 168-68 A. Indeed, courts have held that an application was "completed ... with the filing of supplemental [propagation data] papers inadvertently left out of the [initial] application." See: *Bell Atlantic Mobile of Rochester L.P. v. Irondequoit*, 848 F. Supp. 2d 391 (2012); and, *Greenburgh*. In the instant matter, the applicant filed materials on July 17, 2017 indicating that AT&T and Verizon would be the carriers associated with the application. Only the AT&T RF propagation data is included in those initial filings. Verizon's RF propagation data was not submitted by the applicant until August 30, 2017. Accordingly, as per the applicable case law, the application in the instant matter may not be deemed complete until the August 30, 2017 filing. Thus, the earliest the Shot Clock could be deemed to have commenced, assuming it is even applicable to this application, would be the August 30, 2017 date. Expiration then would occur on January 27, 2018 accordingly.

It should be further noted that counsel for the applicant, Mr. Gaudioso, has stated on the record that the application was complete on July 17, 2017. Not only is this a mischaracterization of governing case law, but if such a statement were correct, by operation, Verizon may not be properly considered as included in the "completed" application given that it fails to include the required RF propagation data as required under the Code.

**C. Applicant has Misrepresented the Application of a
“Prohibition of Service” Claim Pursuant to the TCA**

Assuming it is held that the TCA does apply to the instant application, which is not here admitted but denied, the applicant has misrepresented how it would be applied here. The legal burden that a claimant under a “prohibition of service” claim must meet is a heavy one. Courts have held applicants making such a claim to a high standard, where the burden is upon them to show that a ZBA has acted with hostility toward an applicant, in such a way as to make any future application futile, even where the application before it is fatally flawed. See: *Kiantone; Town of Amherst*.

Here, counsel for the applicant has made assertions on the record to the effect that even if the ZBA were to deny the application, upon judicial review under a prohibition of service claim, approval of the application would “likely be ordered.” Once again, the applicant misrepresents the law. A reviewing court would consider all aspects of the application process, including the ZBA’s conduct and whether it was reasonable and whether there was any evidence of hostility toward the applicant. To suggest that the ZBA might as well approve the application in spite of its deficiencies, because to do otherwise would result in it being granted anyway upon a “prohibition of service” review, is wholly unfounded and a misrepresentation of the applicable law. In the instant matter, the ZBA has acted with the utmost respect and accommodation for the applicant and has not evinced any hostility toward the applicant whatsoever. Accordingly, the ZBA need not accept the applicant’s empty assertions that the defects in its application should be disregarded because it would be approved upon judicial review anyway. Such a claim is not based on proper legal authority and is simply incorrect.

D. Applicant has Misrepresented the Actual Need Standard in the Code

The Code requires that the applicant demonstrate an actual need for the proposed cell tower installation. Courts have interpreted the terms “actual need” to mean significant gap in service. Courts have further held, that where a local zoning ordinance requires that an applicant to build a cell tower installation show an actual need, the applicant must present substantial evidence on the record of a significant gap in coverage. Courts have further held, that failure by an applicant to show, with substantial evidence on the record, that there exists a significant gap, such a failure may be a ground for denial. See, *Fishkill, Islip, White Plains, etc.*

At a public hearing before the ZBA held on November 15, 2017, counsel for the applicant stated on the record that to deny the application based on a failure to show a gap in coverage “would be a real bad reason, because it’s not a criterion in your code and not a criterion we have to meet.” See, *Highlands Current*, 11/24/17, page 5. The Code clearly requires that the applicant demonstrate an actual need, which, as above, courts have held means a significant gap in coverage. Once again, the applicant has engaged in misrepresentation with respect to the law and standards that the ZBA must apply in reaching its decision on the application before it. As such, the applicant’s submissions and assertions on the record require careful scrutiny to ensure that they comply with applicable law. Where they fail to do so, the ZBA is wholly within its right to discredit them in their entirety.

VI. CONCLUSION

Upon the exhaustive review of applicable codes, statutes, regulations and jurisprudence herein, and the foregoing reasons presented based on same, it is hereby respectfully submitted that the application of Homeland Towers, Inc., currently before the Nelsonville ZBA must be denied in its entirety.

SCENIC AREAS OF STATEWIDE SIGNIFICANCE

COLUMBIA - GREENE NORTH
CATSKILL - OLANA
ESTATES DISTRICT
ULSTER NORTH
ESOPUS - LLOYD
HUDSON HIGHLANDS

NEW YORK STATE DEPARTMENT OF STATE
DIVISION OF COASTAL RESOURCES AND WATERFRONT REVITALIZATION

JULY 1993
"Reprinted 2004"

Mario M. Cuomo, Governor
Gail S. Shaffer, Secretary of State



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STATE OF NEW YORK
DEPARTMENT OF STATE
ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER
SECRETARY OF STATE

DETERMINATION OF THE SECRETARY OF STATE

Coastal landscapes possess inherent scenic qualities, including the presence of water, dramatic shorelines, expansive views, historic landings, working landscapes, and great estates. In recognition of the scenic value of the coast, the New York State Coastal Management Program includes public policies for the protection of this resource. In order to implement these policies, the Department of State has embarked on a program to identify, evaluate and recommend areas for designation as scenic areas of statewide significance. The Hudson River coastal area is the first of New York's coastal regions to have undergone a comprehensive analysis of scenic coastal resources.

The Hudson River contains a diverse mix of scenic resources, featuring a complex interrelationship between man and the environment. The region has long been recognized as a scenic area of national importance. It inspired the Hudson River School of Painting in the nineteenth century, the first indigenous American art movement, and the American Romantic Landscape Movement which subsequently spread nationwide and influenced designed landscapes and parks throughout the country.

The application of the scenic resource methodology and the results of the study are contained in the document "Scenic Areas of Statewide Significance" (July 1993). The areas proposed for designation have been subject to consultation with appropriate state agencies and have undergone a lengthy public involvement process, culminating in public hearings held on June 1, 1993 (see Appendix A: Summary of Public Hearing Record). I hereby adopt the July, 1993 document "Scenic Areas of Statewide Significance" as findings in support of my determination that the areas identified meet the criteria of statewide aesthetic significance to the coastal area pursuant to 19 NYCRR 602.5 (c):

Dated: JUL. 22 1993

A handwritten signature in dark ink, appearing to read "Gail S. Shaffer".
Secretary of State

The National Park Service and the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration.

Alpine Development Corporation, Bard College, College of Environmental Science and Forestry at Syracuse, Greenway Heritage Conservancy (formerly the Heritage Task Force for the Hudson river Valley), Hudson River Sloop Clearwater, International Paper Corporation Research Center, Mid-Hudson Patterns, The Parks Council, Regional Plan Association, Scenic Hudson, Seaway Trail, Tappan Zee Preservation Coalition, and the University of Wisconsin at Madison.

This report was prepared by the Department of State, Division of Coastal Resources and Waterfront Revitalization (DOS) under the supervision of George R. Stafford, Division Director; Charles T. McCaffrey, Chief of the Bureau of Local and Regional Programs; and William F. Barton, Chief of the Bureau of Consistency Review and Analysis.

The initial inventory and documentation was prepared by the consultant team of Harry Dodson, Joanne Jackson, Cecily Kihn, and Bob Yaro. Preparation of the final document was completed under the supervision of Loretta Simon of DOS with the assistance of Steve Ridler.

Consultant Mary Lou Lamping Lutters designed the public participation process in consultation with DOS. Laura Zeisel, counsel for the consultant team, conducted legal research of New York State environmental laws relevant to scenic resource protection. Legal review was provided by DOS counsels Paul Heyman, Richard Hoffman, and the late James Coon.

Alan Lillyquist and Nancy Rucks of DOS were responsible for study design and project management during the initial inventory and documentation phases, assisted by Kevin Cross and Thomas Hart. DOS staff, Jeff Beach, Fitzroy Collins and Gerald Morrison assisted with the numerous community informational meetings. Kevin Millington managed document production and distribution with the assistance of Mary Ann Butler, Deborah DeLeonardis and Gary Nankey.

INTRODUCTION

New York State has a long history of recognizing the importance of scenic resources. The first widely known recognition of American landscape beauty was expressed during the 19th century in the work of the Hudson River School of painters. The American Romantic Landscape Movement also developed in the Hudson Valley before spreading to the rest of the nation. Thus, New York's landscape tradition includes appreciation of both the natural and the cultural landscape and its coastal scenic landscapes usually include elements of each.

When the State Legislature established the Coastal Management Program in 1981, their findings included:

"...that New York State's coastal area and inland waterways are unique with a variety of natural, recreational, industrial, commercial, ecological, cultural, aesthetic, and energy resources of statewide and national significance." (Article 42 § 910)

The Act declares that the public policy of the State within the coastal area is "...to achieve a balance between economic development and preservation that will permit the beneficial use of coastal resources while preventing the loss of living marine resources and wildlife, diminution of open space areas or public access to the waterfront, shoreline erosion, impairment of scenic beauty, or permanent damage to ecological systems." (Article 42 § 912). The Federal Coastal Zone Management Act also recognizes the importance of aesthetic values in managing coastal resources. The Act states that it is the national policy "to encourage and assist the states to...achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and aesthetic values...."

SCENIC POLICIES

In recognition of the scenic value of the coast, New York's Coastal Management Program (CMP) includes two policies which provide for the protection and enhancement of this unique resource. Policy 24 provides for the designation and protection of scenic areas of statewide significance; and Policy 25 requires that proposed actions located outside a designated SASS must protect, restore or enhance the overall scenic quality of the coastal area. Both policies call for agencies to determine if a proposed action would impair scenic quality.

The policies state that impairment of a landscape's scenic quality can occur in two principal ways: 1) through the irreversible modification or destruction of landscape features and architectural elements which contribute significantly to the scenic quality of the coast, and 2) through the addition of structures which reduce views or are discordant with the landscape because of their inappropriate scale, form, or construction materials. Regulations governing the designation of scenic areas of statewide significance are found in 19 NYCRR Part 602.5.

Both policies include siting and design guidelines which are to be used to evaluate the impact of proposed development, recognizing that each situation is unique and that the guidelines must be applied accordingly. The guidelines address the appropriate siting of new structures and other development; the use of scale, form and materials which are compatible with the landscape's existing scenic components; the incorporation of historic elements in new development; the maintenance of existing landforms and vegetation; and the removal and screening of discordant features.

EVALUATING NEW YORK'S COASTAL SCENIC RESOURCES

The New York coast is a mixture of developed and undeveloped areas. Central to the growth of the state, the coast is replete with evidence of the state's economic and cultural history. The interaction of man with the landscape provides part of the character that makes the New York coast a visually exciting

and valued place. Its historic and working landscapes stimulate as much interest and attract as many visitors as its more natural landscapes.

Because the New York coastal landscape is so diverse, a method for evaluating the scenic quality of the state's coastal landscape must be capable of evaluating both developed and undeveloped areas of the coast. In addition, public recognition of the landscape's scenic quality is included in the criteria for identification of scenic areas of statewide significance under the Coastal Management Program. The landscape must also be visually accessible to the general public.

In order to develop and apply a method for evaluating scenic quality, the Department of State sought proposals in 1987 for the development of a scenic evaluation method. The firms of Jackson & Kihn of Philadelphia, Pennsylvania and Dodson Associates of Ashfield, Massachusetts were chosen to develop the method and apply it first in the Hudson River coastal area.

Dodson Associates had completed a scenic evaluation of the Connecticut River Valley for the Center for Rural Massachusetts of the University of Massachusetts at Amherst. Dodson Associates' approach to visual analysis recognizes the interrelatedness of landscape elements and is not limited to identifying specific viewing points and evaluating viewsheds. It is a descriptive approach which identifies the landscape elements and rates their scenic quality, taking public values into account. The Department of State first met with the consultants on January 7, 1988. Preliminary study area visits began on April 6, 1988.

New York's Scenic Evaluation Method

New York's scenic evaluation method is a participatory process involving government agencies and the general public in the development of criteria and the review of study results. The State regulations specify that the Secretary of State shall consult with appropriate State agencies before identifying and designating scenic areas of statewide significance. Accordingly, in 1988 the Department of State established a statewide panel of State agency representatives and experts in scenic landscape evaluation to assist in developing the coastal scenic evaluation method. The first meeting of the state panel was held on June 28, 1988.

The method developed recognizes the diversity of natural and cultural elements that shape scenic coastal landscapes. In order to identify and define coastal scenic components, the physical and cultural character of the coastal landscape and the geologic and historical forces which have shaped the development patterns are examined. A comprehensive listing of coastal landscape elements is developed, including geological features, water features, vegetation, historical and cultural features, and views. Those elements found in the study landscape which influence the scenic quality of the landscape are identified as scenic components. Characteristics which would render each scenic component as distinctive, noteworthy or common are described. Also rated is the extent of discordant elements in the landscape.

For example, a bluff which is very high, prominent and of varied configuration, with dramatic backdrop and shoreline and no incompatible development, is considered to be distinctive. A bluff of noteworthy scenic quality would be high with a moderately varied configuration, strong backdrop and shoreline, and minor incompatible development. Low, uniform bluffs with monotonous backdrop and shoreline and a major presence of incompatible development would be rated common.

The landscape elements and their scenic characteristics are presented in the Table of Scenic Components. The table also provides for the evaluation of the aesthetic significance of the landscape composition, the landscape's uniqueness, and its public accessibility and public recognition. The evaluation of the landscape composition focusses on the interrelationships of the landscape elements and the composition of views.

For further discussion of the rating system, see Appendix A. Appendix A also includes a sample visual evaluation form. The Table of Scenic Components is found in Appendix B.

Application of the Method

An important aspect of the scenic evaluation method is that the entire coastal area of the region under study is evaluated. After an initial survey of the entire coastal region, the Table of Scenic Components is adjusted so that it contains only those landscape elements found in the study landscape. This adjusted table is called the Regional Table of Scenic Components.

The coastal area of the region is then divided into geographic subunits based on topography and land use. Each subunit is evaluated for its scenic quality. The landscape elements of each subunit are rated individually according to the criteria on the regional table of scenic components, and the ratings are recorded on field sheets along with the evaluator's comments. The relationship of the elements to each other, the quality of the views, and the uniqueness of the landscape are also evaluated to determine the scenic quality of the subunit as a whole.

The degree of public accessibility to the subunit and the degree of public recognition of the landscape's scenic values are rated for each subunit. Public recognition is evaluated in three ways: first, through public meetings and surveys during which landscape elements are rated for scenic quality and specific areas considered scenic are identified; second, through official recognition such as government designations and public investment; and third, through evidence found in the public statements of literature and the arts.

Candidate Scenic Areas of Statewide Significance

Based on the above evaluation, candidate scenic areas of statewide significance (SASS) are identified. Candidate SASS are composed of large clusters of subunits rated distinctive. Subunits with ratings of noteworthy and common may be included in a SASS if they link distinctive subunits or otherwise contribute to the cohesiveness of the SASS, provided that the total rating of the SASS remains

distinctive. Isolated subunits or small clusters of subunits rated distinctive are not considered for designation unless the subunit or cluster has an exceptionally high distinctive rating. Note should be made that the scenic resources within a candidate SASS sometimes extend beyond the boundaries of the Coastal Management Program and cannot, therefore, be included within the candidate SASS.

Detailed, descriptive narratives for each subunit and for the SASS as a whole are prepared. Scenic area maps which delineate the boundaries of the SASS and its subunits accompany the narratives. After designation, the narratives will be used by reviewers in evaluating the consistency of proposed projects with the coastal scenic policies.

Based on the field sheets, the narratives describe the nature of scenic landscape elements and their interrelationships, the significance of their scenic quality, and the degree of public accessibility and public recognition of the landscape. The historic context of the landscape is described, focussing on the forces that shaped the landscape. Understanding these historic forces enriches the appreciation of the existing scene and can serve as a guide for future management decisions. Actions which may impair the scenic quality of the SASS also are identified in the narratives. These are to function as guidelines during the review of projects proposed within the designated SASS. The candidate SASS are subject to public review. Public hearings on the proposed designations must be held and findings made by the Secretary of State before SASS may be designated.

SCENIC AREAS OF STATEWIDE SIGNIFICANCE IN THE HUDSON RIVER REGION

The Hudson River coastal area between New York City and the federal dam at Troy is the first area to be evaluated under Policy 24. The Hudson River coastal landscape has a wealth and variety of scenic resources, shaped by a unique combination of geological forces and historical events. Majestic mountains and formidable bluffs rise above the Hudson's waters in some stretches of the river. In others, forested slopes, estate lawns, extensive marshlands and farm fields line its shorelands.

The Hudson River region has played an important role in the nation's history. It spawned the Hudson River School of Painting and the Romantic Landscape style. World renowned artists have responded to its beauty, and the works of major architects line the river's corridor. Historic river landings and villages evidence the Hudson's past as a bustling transportation corridor. Today, tourism is the major industry; and national and State parks and historic sites attract visitors from around the nation and the world.

Six stretches of the Hudson River and its shorelands have been designated as scenic areas of statewide significance. These are the Columbia-Greene North SASS, the Catskill-Olana SASS, the Estates District SASS, the Ulster North SASS, the Esopus-Lloyd SASS and the Hudson Highlands SASS. They include a fiord in the Hudson Highlands, an impressive collection of significant estates along the Hudson River's mid-section, the landscape where Thomas Cole and Frederic Church made their homes, and the pastoral landscape south of the State capital. Each designated SASS encompasses unique, highly scenic landscapes which are accessible to the public and recognized for their scenic quality.

Each designated SASS is comprised primarily of clusters of distinctive subunits. Occasionally, a noteworthy or common subunit is included in a SASS because it links distinctive subunits or contributes to the cohesiveness of the SASS. No individual distinctive subunits are proposed for designation in the Hudson River region at this time.

BENEFITS OF DESIGNATION

Designation affords special protection from potentially adverse federal or State actions which could impair the scenic quality of the SASS. Narratives prepared for each SASS describe the character and scenic quality of the SASS landscape, providing guidance to the public and regulatory agencies as to which landscape elements should be protected and which actions could impair the scenic quality of the SASS.

Additional protection of SASS can be afforded by municipalities which prepare Local Waterfront Revitalization Programs (LWRP). Local land use authority is an important tool for the protection of scenic resources. In communities with an approved LWRP all three levels of government - federal, State and local - are working toward a common goal. Of the 44 municipalities included within the candidate SASS, 25 have prepared or are preparing LWRPs. Most of the LWRPs already address to some degree the protection of scenic landscapes. Designation of the SASS does not impinge on local government decisions.

THE HUDSON RIVER STUDY

The Hudson River coastal area was evaluated from the air, from the Hudson River, from the road network and on foot. To ensure public participation in the scenic assessment process, a regional panel was appointed to oversee the study. The panel is composed of State agency members of the statewide panel, representatives of county and local government and environmental organizations, and individual citizens of the region. The Department of State and the consultants met frequently with the regional panel regarding the conduct of the study and its results. The statewide panel was also kept informed of the study's progress, and joint meetings with both panels were held as appropriate. The panels provided information to the consultants regarding the resources of the valley and reviewed the consultants' work for accuracy and reasonableness.

Meetings with both panels attending were held at the Norrie Point Environmental Center in Staatsburg on July 12, August 2, September 20 and November 15, 1988 and on September 16, 1989.

In order to assess public values regarding the scenic quality of Hudson River coastal scenic components, public workshops were held in Poughkeepsie and Greenport at which those attending were asked to rate various regional landscape elements for their scenic quality. Questionnaires were also published in area weekly newspapers, inviting the public to identify landscapes they thought were of high scenic quality. The responses generated at the workshops and through the survey were considered during the development of the Hudson River Regional Table of Scenic Components.

When candidate SASS were initially identified, draft narratives were prepared and distributed widely in the region. The following public information meetings were held throughout the region during which residents could examine the narratives and accompanying maps:

May 14, 1990	Ulster County Office Building, Kingston
May 15, 1990	Norrie Point Environmental Center, Staatsburg
June 11, 1990	Piermont Village Hall, Piermont
June 12, 1990	Philipstown Town Hall, Cold Spring
June 13, 1990	Bear Mountain Inn, Bear Mountain State Park
June 25, 1990	Columbia-Greene Community College, Greenport
June 26, 1990	Coxsackie Village Board Room, Coxsackie

The draft narratives were sent to all municipalities in the study area for review and comment. Presentations were also made at public meetings of the following local government bodies in communities located in the candidate SASS:

May 23, 1990	Hyde Park Town Board
June 5, 1990	Coxsackie Town and Village Boards
June 11, 1990	Athens Town and Village Boards
June 12, 1990	Philipstown Town Board
June 12, 1990	Cortlandt Town Board
June 26, 1990	Greene County Environmental Management Council
July 3, 1990	Stockport Town Board
July 9, 1990	Haverstraw Town Board
July 10, 1990	Kingston City Council
July 12, 1990	Stuyvesant Town Board
October, 1990	Saugerties Town and Village Boards

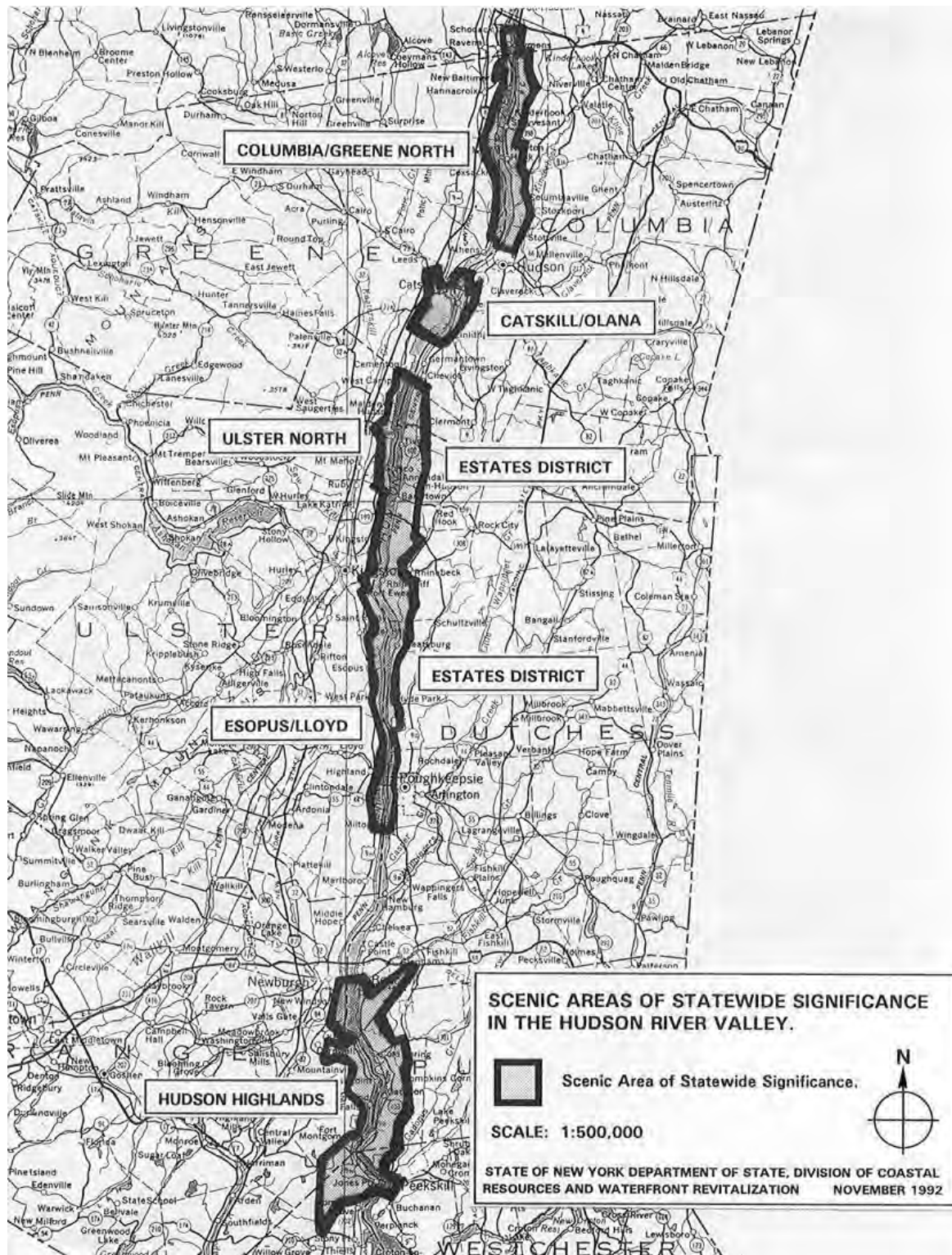
Based on comments received during this initial period of public review, the SASS narratives and maps were revised. Additional field visits were made and additional research conducted concerning the history and resources of the candidate SASS. The information collected was incorporated into the document "Scenic Areas of Statewide Significance Proposed for Designation" (April 1993). This document was the subject of further public review throughout the Hudson River region. Public hearings on the areas proposed for designation as scenic areas of statewide significance were held on June 1, 1993 at the following locations:

Columbia-Greene Community College, Greenport, Columbia County
Rhinebeck Town Hall, Dutchess County
Bear Mountain Inn, Rockland County

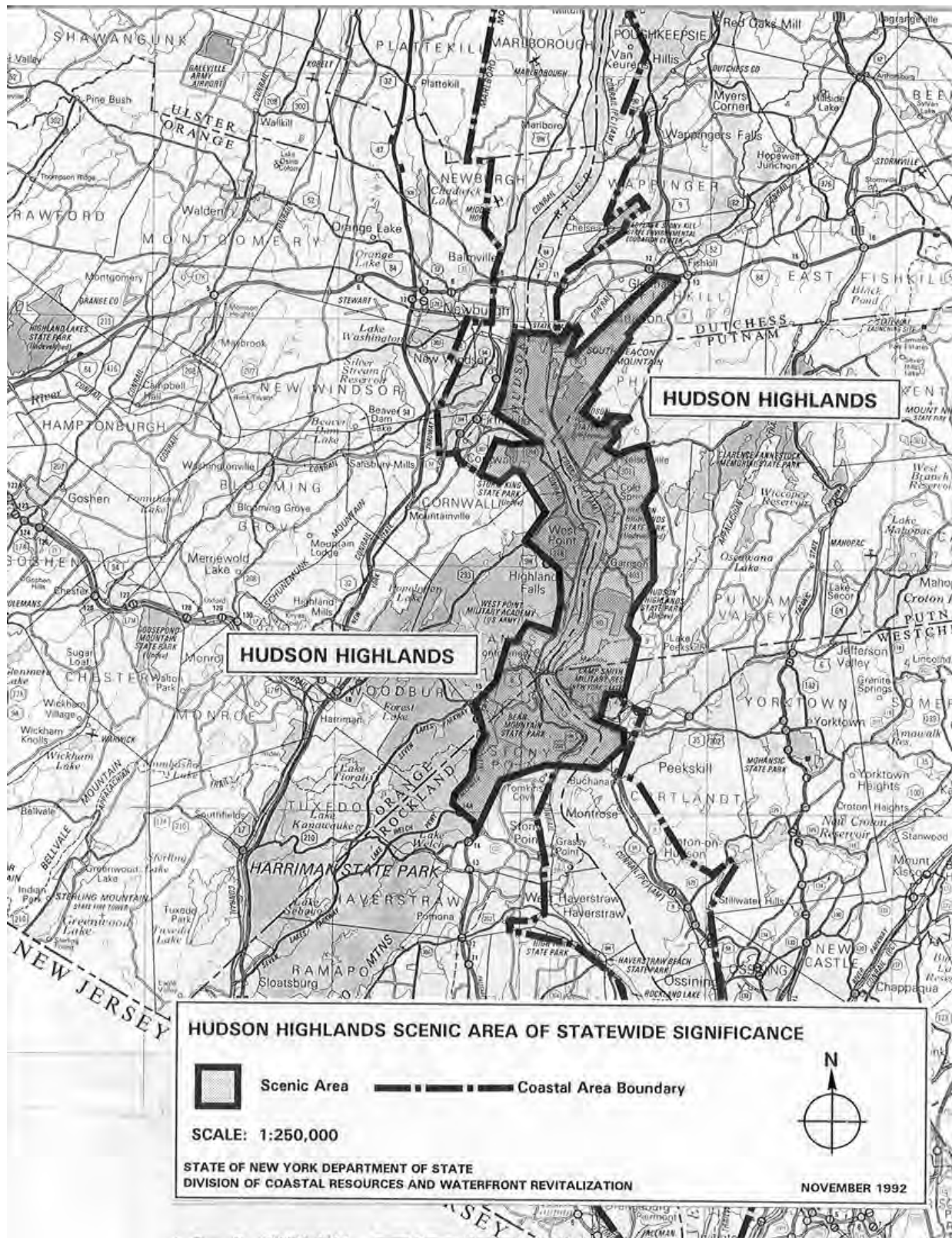
After reviewing the hearing record and all written comments received within the comment period, several minor factual revisions were made to the narratives and these are incorporated into this document. As a result of the material contained in this document, the Secretary of State determined that the six areas proposed for designation were of statewide aesthetic significance to the coastal area pursuant to the factors set forth in 19 NYCRR 602.5 (c). Policy 24 of the Coastal Management Program now applies to those areas encompassed by the SASS designation. Management plans for each SASS will be prepared as resources allow. Local governments with approved local waterfront revitalization

programs will be encouraged to evaluate their program for adequacy of protection of the identified scenic resources. Municipalities not participating in the Coastal Management Program will be encouraged to prepare LWRPs, but will not be required to change current local government decision making.

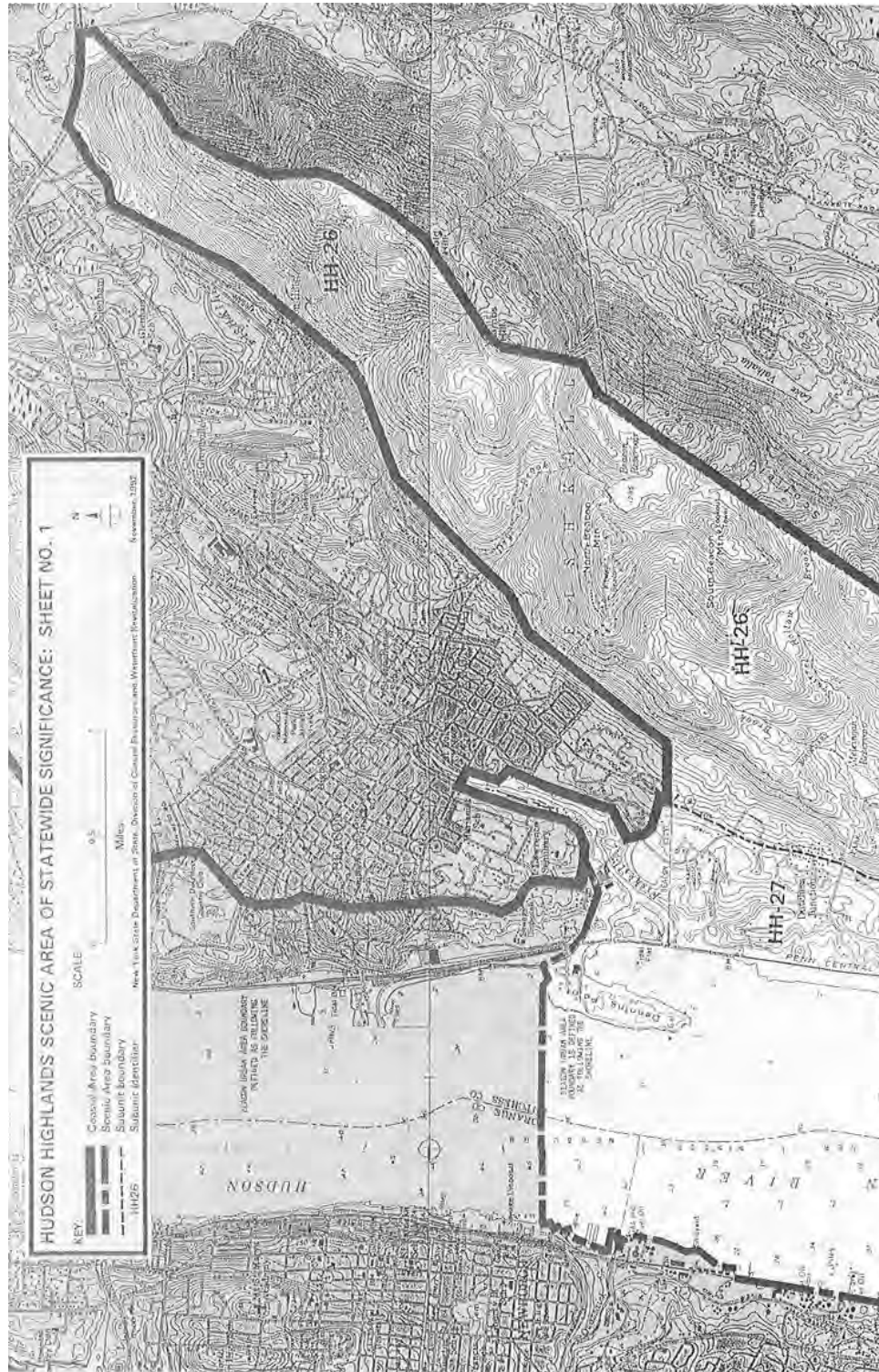
MAP: HUDSON RIVER SCENIC AREAS



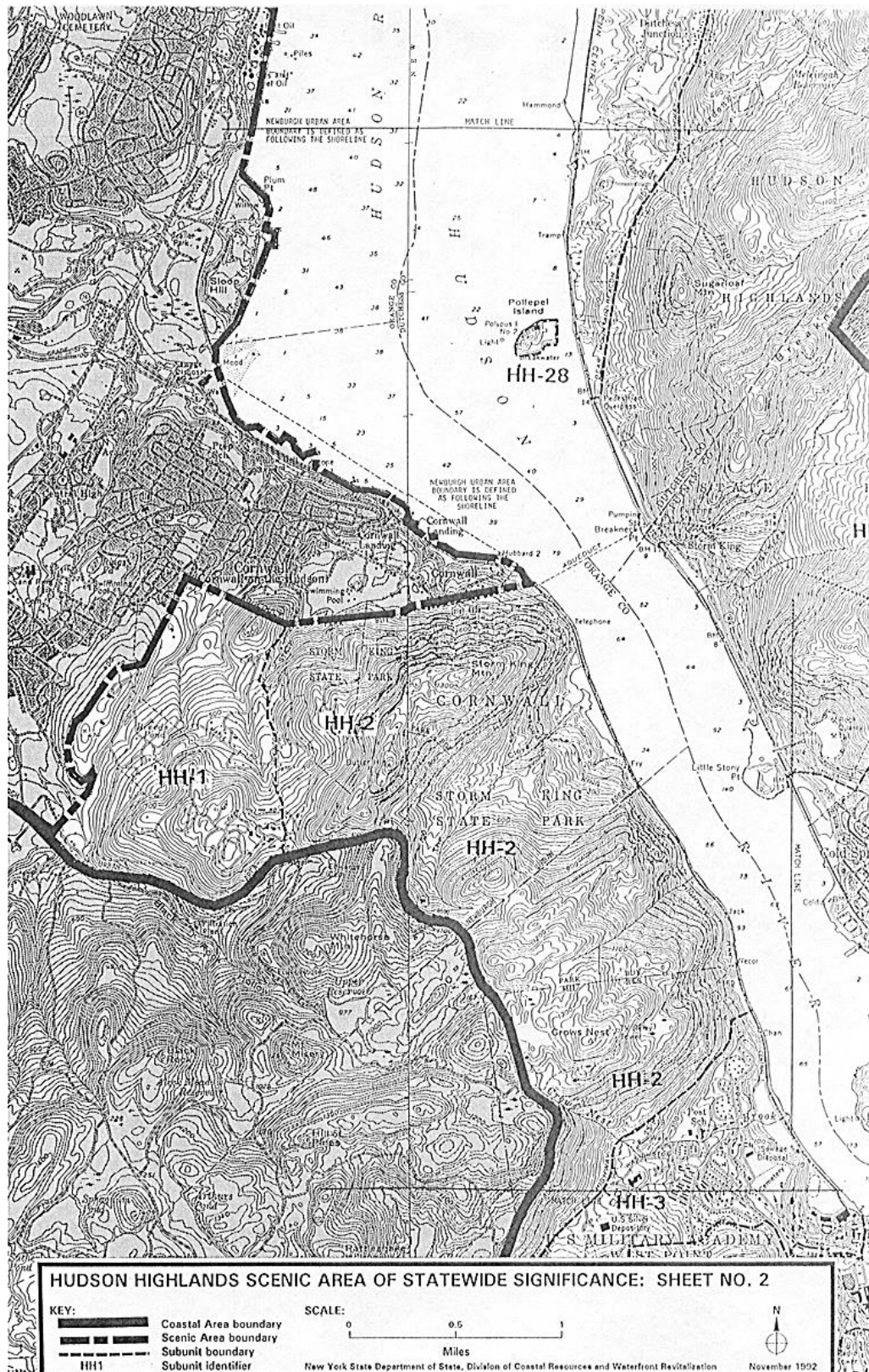
MAP: HUDSON HIGHLANDS SCENIC AREA OF STATEWIDE SIGNIFICANCE



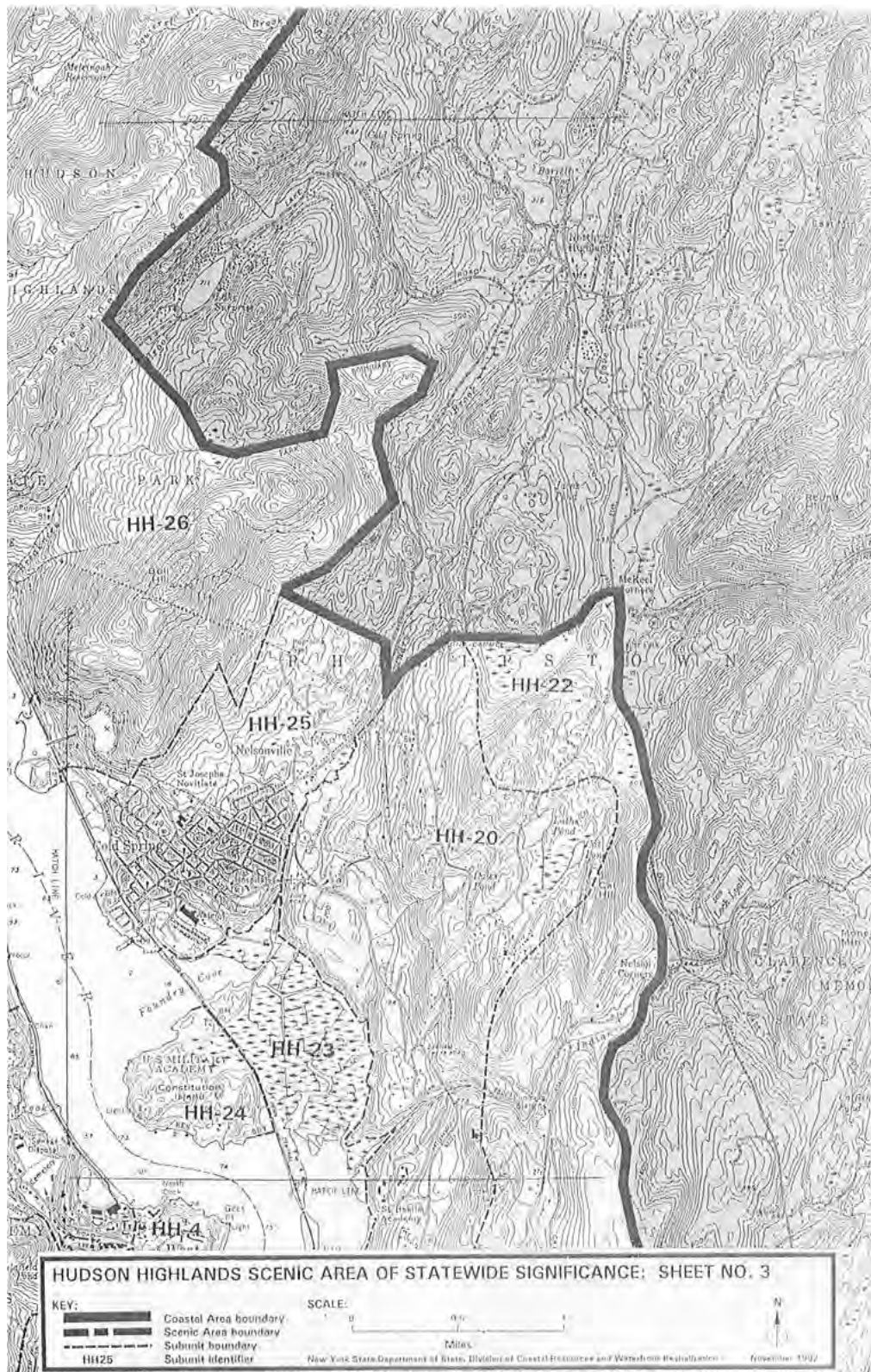
MAP: HUDSON HIGHLANDS SHEET 1



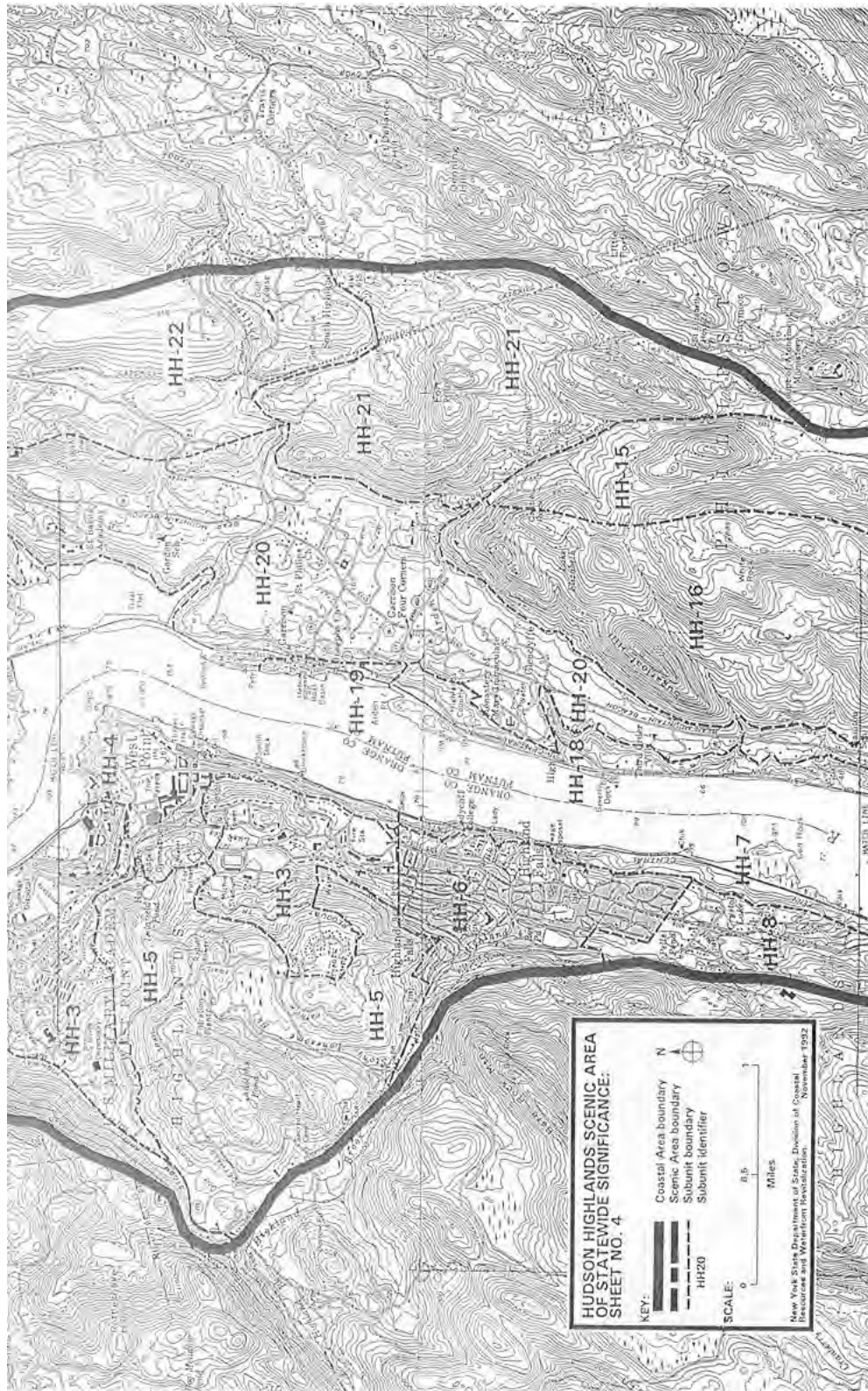
MAP: HUDSON HIGHLANDS SHEET 2



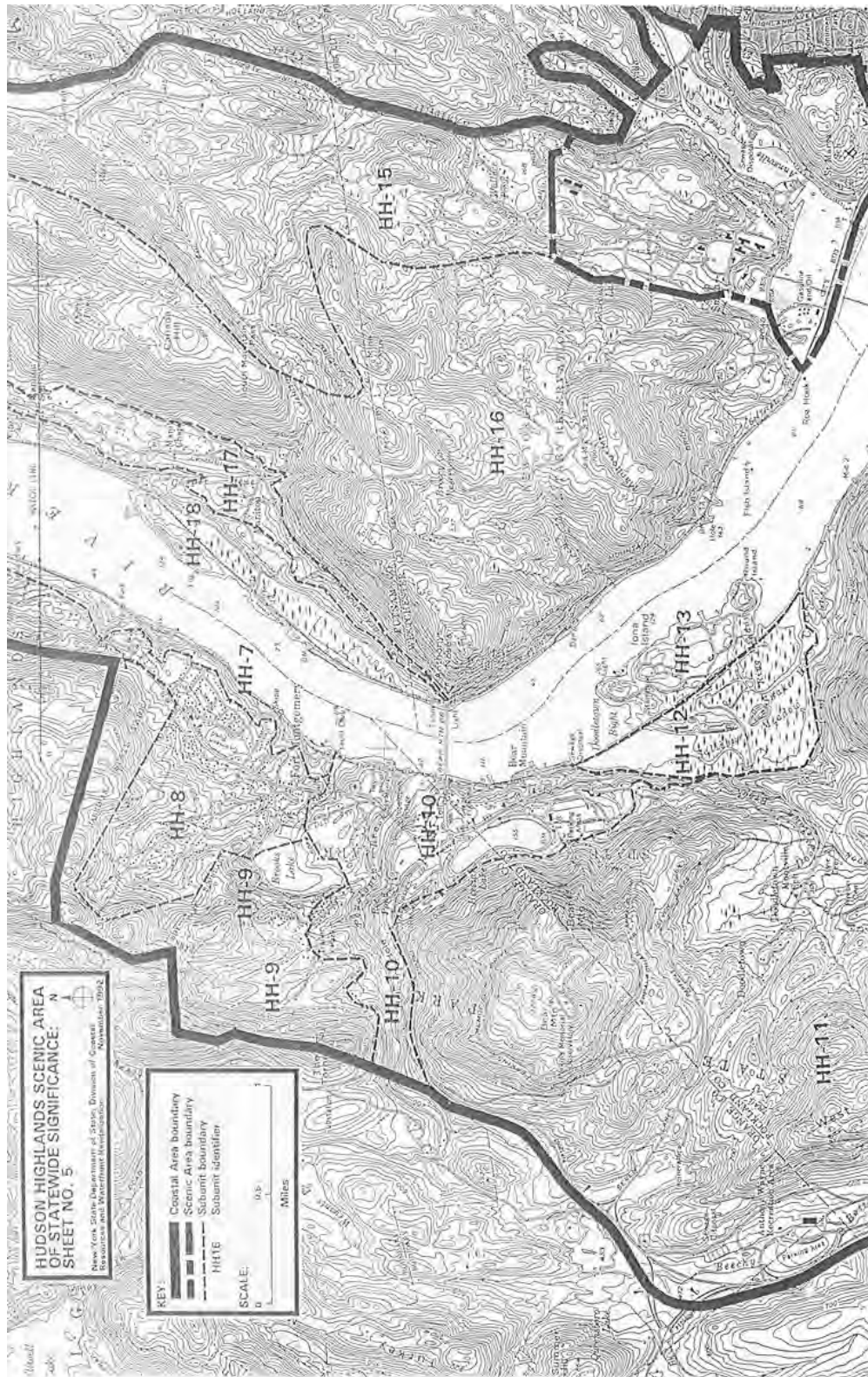
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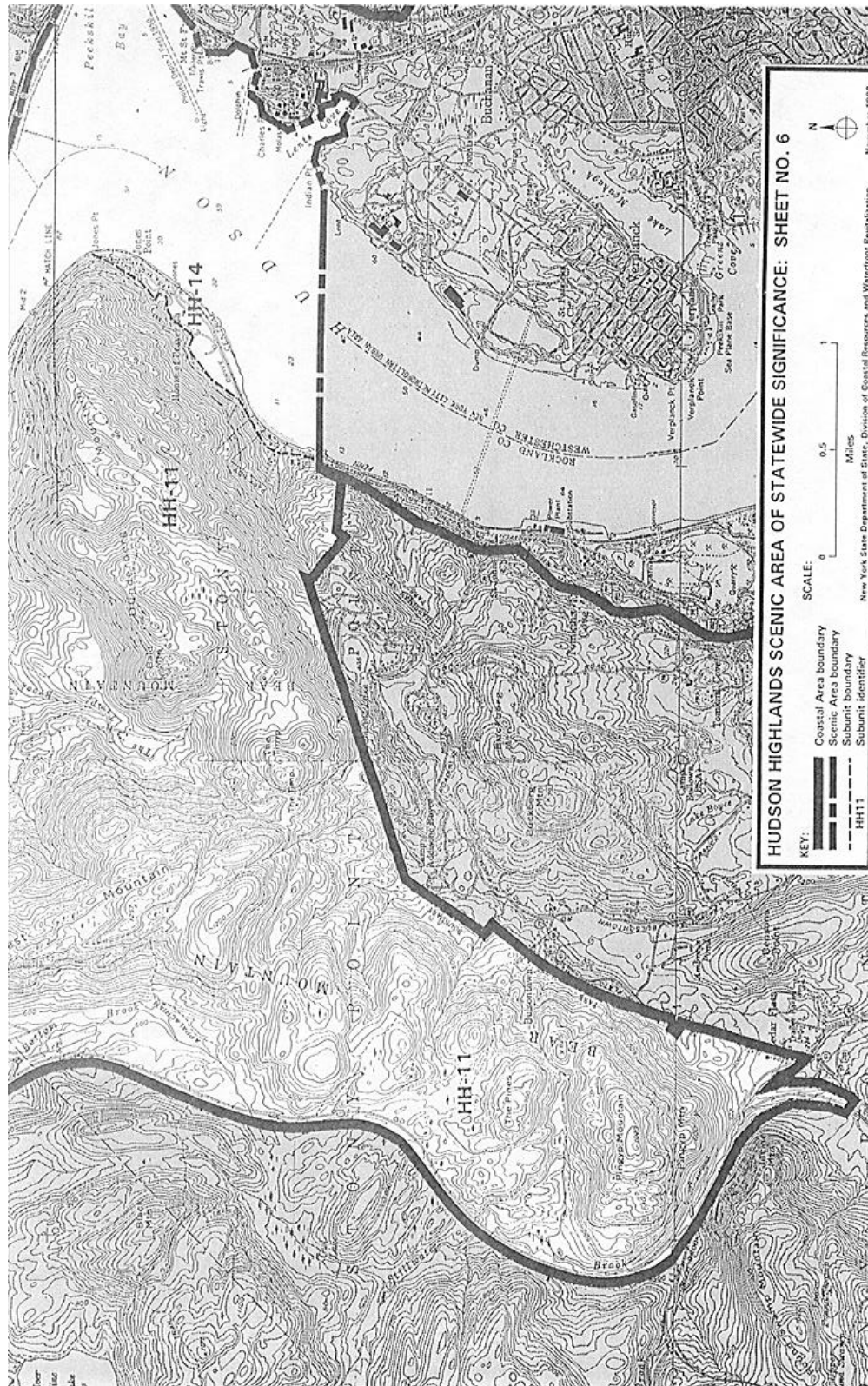
MAP: HUDSON HIGHLANDS SHEET 4



MAP: HUDSON HIGHLANDS SHEET 5



MAP: HUDSON HIGHLANDS SHEET 6



HH-25 Cold Spring Subunit

I. Location

The Cold Spring subunit consists of the Villages of Cold Spring and Nelsonville, located on the east bank of the Hudson River. The southern and eastern boundary of the subunit runs along the 20 foot contour from the northern extent of Foundry Cove to its intersection with Foundry Brook, a common boundary with the Constitution Marsh subunit. It then runs north along Foundry Brook to NY Route 301, the Cold Spring-Carmel Road, a common boundary with the HH-20 Garrison Four Corners subunit, and follows NY Route 301 to the intersection with the coastal area boundary, which it follows to its intersection with the boundary of the HH-26 Hudson Highlands State Park. The northern boundary of the subunit is the southern boundary of the Hudson Highlands State Park, a common boundary with the Hudson Highlands State Park subunit, which it follows from Little Stony Point to its intersection with the coastal area boundary. The subunit extends across the Hudson River and shares a common boundary with the HH-2 Storm King subunit on the western shorelands of the Hudson River. The subunit extends approximately 2 miles northeast from the Hudson River up the Foundry Brook Valley and is between 0.75 and 1 mile

wide. It is located in the Town of Philipstown, Village of Cold Spring and the Village of Nelsonville, Putnam County. Consult the Hudson Highlands SASS map sheet number 3 for subunit boundaries.

II. Scenic Components

A. Physical Character

The topography of the Cold Spring subunit is composed of a flat waterfront area along the shores of the Hudson River, Foundry Cove and a low protrusion into the Hudson River. Beyond this the subunit rises gently to the sloping valley hillsides on the flanks of Bull Hill and along the valley of the Foundry Brook. The vegetation of the subunit is a mix of mature street planting and woodland. The Hudson River is the main water feature in the subunit, and Foundry Brook runs along the southeastern boundary.

B. Cultural Character

The Cold Spring subunit features a tightly-knit settlement with a strong locational and historical relationship with the Hudson River. The Village of Cold Spring occupies the lowland adjacent to the Hudson River and rises up the hillside to the Village of Nelsonville, situated on the southern flanks of Bull Hill.

The Village of Cold Spring is significant in the history of the Hudson Highlands. It was settled in the early 19th century as a small riverfront center built around the major local industrial activities of mining and a large foundry. Early settlement focused on the shoreline and grew around the historic Main Street which today leads through a small valley and the historic village center directly to the river's edge, ending in a small wharf and docks.

An early plan for the village was established by Frederick Phillipse. Lots were sold for the development of the riverfront area, resulting in the orderly development of the community. The existing land-use pattern of commercial and public buildings along Main Street, with residential side streets and larger estates above on the hillsides, is a direct result of the implementation of this plan.

The West Point Foundry, sited mostly in the adjacent HH-23 Constitution Marsh subunit, was established in 1817. By the mid-19th century, it had become the largest foundry in the United States. Cold Spring grew around the foundry into the commercial and industrial center of the Hudson Highlands. The main growth in the village took place between 1830 and 1870 when the basic arrangement of the original plan for the village was developed through infill along the existing streets and new subdivisions. In 1848 the Hudson River railroad was laid, running through the lower portion of the village and separating the upland and waterfront areas. The character of the village changed after several severe fires during the late 1800's. Rebuilding yielded the shop fronts that still characterize the village. In the 1890's many street trees were planted, a public water supply installed and electric street lighting introduced.

Today, Cold Spring is a picturesque village which has maintained and restored many of its historic structures, including the Chapel of Our Lady, built on the shore of the Hudson in 1828. Some large estates have been replaced by public buildings, parkland or residential subdivisions; but Main Street and its adjacent residential areas retain their traditional character, a mix of residential, retail and commercial activities. The village's historic waterfront buildings are especially significant in their visual relationship to the river, and the riverfront park and bandstand provide a focal point against the backdrop of West Point and the western Hudson Highlands.

Cold Springs's greatest assets are the historic character of its constructed elements, the small town character of its life-style and the highly scenic quality of its setting in the natural environment of the Hudson Highlands. The significance of many structures, most visible from public roads, has been recognized through their listing on the State and National Registers of Historic Places as part of the Hudson Highlands Multiple Resource Area. Included in the listing are industrial, commercial and residential properties and two historic districts, the details of which are outlined below.

The Cold Spring Historic District is concentrated along the axis of Main Street, a predominantly commercial street with some municipal, religious and residential structures. Parts of the adjoining residential streets are also included in the district with distinctive examples of the full range of styles, building types and construction methods spanning over a century of growth. The oldest parts of the village are found between the river and the railroad. The early street configuration remains. Although the area is now distinguished by 19th century structures, the character of the landing has been maintained. The commercial core of the village is an eight block section of Main Street. Architecturally, the village is an eclectic mix of frame and brick structures of various scales and styles with many varied features and design details from the many building periods.

At the junction of Main Street, Morris Avenue and NY Route 9D is St. Mary's Episcopal Church and an impressive grouping of Second Empire homes. These wealthy homes exploited the vistas available from the higher elevations above the village. Also in this part of the village is a collection of more middle-class residences. Two other distinctive neighborhood areas can be identified within the historic district. Kemble Avenue, south of Main Street, contains a significant row of duplex workers' housing built for laborers at the West Point Foundry; and adjacent to the railroad is a residential neighborhood which reflects the impact of the railroad on village life. The Cold Spring Historic District contains approximately 225 structures of varying types, periods and methods of construction.

The Cold Spring Historic District is significant for its architectural and historical associations as a planned settlement related to the growth of the adjacent West Point Foundry. The different periods of growth and prosperity of the foundry influenced the accompanying increase in the size of the village. The village also exhibits the legacy of the prosperous and paternalistic society associated with this part of the Hudson Highlands.

The Village of Nelsonville, stretching up the hillside above Cold Spring, has a mix of historic properties. The First Baptist Church of Cold Spring, completed in 1833, is the only frame church of distinction in the

Hudson Highlands. It is the oldest church in the Town of Philipstown and has been in continuous operation within the same structure since its formation. The church retains its original design and is one of the most architecturally significant buildings in the Village of Nelsonville. Other structures listed on the State and National Registers of Historic Places as part of the Hudson Highlands Multiple Resource Area are the Fish and Fur Club, the Hustis House, the Italianate residence at 3 Crown Street, the clapboard residence at 249 Main Street, the H.D. Champlin and Sons Horseshoeing and Wagonmaking shop on Main Street and the elaborately decorated J.Y. Dykman's Flour and Feed Store.

The West Point Foundry, most of which is located in the adjacent Constitution Marsh subunit, is listed on the State and National Registers of Historic Places. The historical significance of the foundry is discussed in more detail in the narrative of the Constitution Marsh subunit.

The Marathon Battery factory which operated on Kemble Avenue from 1952-79 has left a harmful environmental legacy in this subunit. Discharges of pollutants from the factory, including cadmium, cobalt and nickel, entered the Hudson River at an outfall pipe on the Cold Spring pier, creating a serious hazardous waste site. This is now part of a Federal Superfund site, and major remediation works will be undertaken.

Active industrial uses once occupied much of the waterfront in the subunit. Today only two major parcels of the village are used for light industry. The former Marathon Battery plant is now a warehouse and storage yard, and the waterfront pier is partially used for oil storage and distribution.

Contrasts of an ephemeral nature are to be found in the subunit. The bustle of an active village center enhance the scenic quality of the subunit. The dramatic effects of varying weather conditions enhances the aesthetic character of the landscape composition as storms, cloud formations, snow, mists, fog and the varying level and direction of sunlight all provide contrasts in line, shape, texture and color, enhancing the contrasts to be found in the area.

The subunit is generally well maintained. There are no discordant features visible, although the railroad, the waterfront pier used for oil storage and distribution and some recent commercial development in the eastern portion of the village detract from the overall scenic quality of the subunit.

C. Views

The Villages of Cold Spring and Nelsonville are oriented along an east-west road that rises inland away from the Hudson River and affords many residences a river view. Views down Main Street, framed by the buildings and street trees, are directed to the Hudson River, while the surrounding Hudson Highland peaks provide the backdrop to the village. Storm King Mountain to the north is visible from many locations in the subunit; and the steep slopes of Crow's Nest, directly across the Hudson River, are dominant in views to the west. Views from the river are of the historic waterfront, including the docks, wharf, residences and the restored Chapel of Our Lady, and of Main Street rising up the wooded hillsides of the subunit. There is a strong composition of many scenic components with many interesting focal points, including the numerous and varied structures located on the estates which dot the wooded

hillsides of the adjacent HH-20 Garrison Four Corners subunit, and the peaks of Storm King and Crow's Nest and the United States Military Academy at West Point on the western shorelands of the Hudson River.

III. Uniqueness

The location of such a large historic village on the shores of the Hudson River is unique. The development of the village as an industrial center rather than the typical Hudson River pattern of development based around a commercial waterfront is unique in the region. The subunit is also unique in combining a very historic and well-preserved riverfront village center with some of the Hudson River's most dramatic topography.

IV. Public Accessibility

The Cold Spring subunit is accessible from the Hudson River, NY Route 9D and many local streets. Passengers on the railroad trains also catch a glimpse of the village. Metro North trains stop at the Cold Spring station. The three acre waterfront park, with its bandstand, small dock and grassy areas, is heavily used by the public and provides spectacular views of the Hudson River and the surrounding uplands of the Hudson Highlands. There are plans for the restoration of the dilapidated municipal dock to once again allow passenger vessels to stop at Cold Spring, increasing public accessibility to the subunit. The park is the focus of public waterfront activity for the region around Cold Spring and is one of the most accessible public spaces on the Hudson River in Putnam County. The subunit is visible from NY Route 218 on the west bank of the Hudson as it hugs Storm King Mountain and from the United States Military Academy at West Point.

V. Public Recognition

The scenic and historic values of the Cold Spring subunit are well recognized. The Village of Cold Spring is known for its collection of shops and restaurants. The architectural and historical significance of the Village of Cold Spring as one of the best preserved 19th century townscapes in the Hudson Region is recognized through the inclusion of the Cold Spring Historic District and the West Point Foundry site in the Hudson Highlands Multiple Resource Area, listed on the State and National Registers of Historic Places. Ninety three acres of the old West Point Foundry site, situated primarily in the Constitution Marsh subunit, are now an archaeological site, with the abandoned Victorian office building the major visible landmark. The Village of Nelsonville has nine properties included in the Hudson Highlands Multiple Resource Area listed on the State and National Registers of Historic Places.

VI. Reason for Inclusion

The Cold Spring subunit is included in the Hudson Highlands SASS because it is of high scenic quality. There is much variety in the physical and cultural components of the subunit, including variety in the topography, vegetation and the many building styles. The subunit is unified by the tight, historic pattern of development in the two villages. The built areas of the subunit contrast with the rugged Hudson

Highlands landscape that surrounds the villages, and there is a contrast in line, form and style among the numerous structures. The location of such a large and well preserved historic village on the shores of the Hudson River is unique. The development of the village as an industrial center rather than the typical Hudson River pattern of development based around a commercial waterfront is unique in the region. The subunit is accessible from local roads, the passenger trains, the waterfront park, the Hudson River and from surrounding subunits. It is well recognized as an historic village on the waterfront situated in a dramatic setting. The historical and architectural value of the subunit is recognized by the inclusion of the Cold Spring Historic District, the West Point Foundry, and nine properties in the Village of Nelsonville in the Hudson Highlands Multiple Resource Area listed on the State and National Registers of Historic Places. There are no discordant features in the subunit.

HH-26 Hudson Highlands State Park Subunit

I. Location

The Hudson Highlands State Park subunit is located south and east of the City of Beacon and stretches south to the Villages of Cold Spring and Nelsonville. The southern boundary of the subunit is the southern boundary of the Hudson Highlands State Park, a common boundary with the HH-25 Cold Spring subunit, which it follows from Little Stony Point to its intersection with the coastal area boundary. The eastern boundary of the subunit is the coastal area boundary, which follows the boundary of the Hudson Highlands State Park to its intersection with the Dutchess-Putnam County line, which the subunit boundary then follows along the ridgeline until the county line turns easterly. The subunit boundary then follows the ridgeline to Clove Creek and Interstate 84. The western boundary of the subunit follows NY Route 9D north from benchmark 14 to its intersection with the boundary of the City of Beacon, a common boundary with the HH-27 Dutchess Junction subunit. The subunit boundary then follows the coastal area boundary along the city line to its intersection with the Central Hudson power line which it follows northeasterly to the Fishkill Creek. The boundary then follows the creek to Interstate 84, then follows Interstate 84 easterly to Clove Creek. The subunit extends across the Hudson River to the high water mark on the western shorelands of the Hudson River, in part a common boundary with the HH-2 Storm King subunit. The subunit is approximately 7 miles long and between 1 and 2.5 miles wide. It is located in the Town of Fishkill, Dutchess County, the Town of Philipstown and the Village of Nelsonville, Putnam County and the Town of Cornwall and the Village of Cornwall-on-the-Hudson, Orange County. Consult the Hudson Highlands SASS map sheets, numbers 1 and 3, for subunit boundaries.

II. Scenic Components

A. Physical Character

The subunit is composed entirely of steep wooded mountains reaching elevations of up to 1600 feet, the highest peaks in the Hudson Highlands. Mountains included in the subunit are Sugarloaf Mountain, Bull Hill (Mount Taurus), South Beacon Mountain, North Beacon Mountain, Bald Hill and Lambs Hill. The

northern slopes of the Scofield Ridge and Breakneck Ridge comprise much of the subunit. The rounded upland summits run together to form a distinctive ridgeline which marks the northern boundary of the Hudson Highlands. In places the mountains plunge down to the shore of the Hudson River and, with surrounding subunits, create part of the glacially-formed fjord of the Hudson Highlands. The subunit includes the Hudson River and the Fishkill Creek. Several streams, including Breakneck Brook, Wades Brook, Gordons Brook, Squirrel Hollow Brook and Dry Brook run through the subunit to meet either the Hudson River or Fishkill Creek. Two reservoirs are located in the subunit. The Beacon Reservoir is located high in the hills between North and South Beacon Mountains, and the Meltingah Reservoir is located north of Sugarloaf Mountain on Gordons Brook. Woodlands dominate these steep mountains with a mix of mature deciduous and coniferous trees. The Hudson River shoreline is generally gently curving, with two small wooded promontories at Little Stony Point and Breakneck Point. There is a sandy beach on the northeastern shore of Little Stony Point. The physical character of the subunit has been much altered through the effects of quarrying, notably on Bull Hill, Breakneck Ridge and Little Stony Point, that lasted from the early 1800's into the 1960's.

B. Cultural Character

The subunit includes the main body of the Hudson Highlands State Park, an extensive woodland habitat managed as public wild lands. It is generally well maintained. There is scattered residential development on the hillsides above Beacon, to the east of NY Route 9D and along the Fishkill Creek. During the Revolution, redoubts were established on the high summits of the subunit and were used as signal posts. Ruins of a large estate can be found on the western flank of Bull Hill. The Catskill Aqueduct, built in the early 1900s to carry water from the Ashokan Dam to New York City, crosses the subunit.

A significant feature in the subunit is the abandoned Mount Beacon Incline Railway. Designed by the Otis Elevator Company of Yonkers in 1902, the railway was built to provide easy access up the west side of North Beacon Mountain, enabling patrons to enjoy the panoramic vistas of the Hudson Highlands. The railway was 2,364 feet long with a 64 degree incline over its rise of 1,540 feet. It was reputed to be the steepest cable railway in the world. A cluster of buildings was developed at the summit of Mount Beacon, including the power house; the Beaconcrest Resort hotel, which was destroyed by fire in 1928; and a casino/club, destroyed by fire in 1981. The power house is the only surviving structure on the summit. The incline railway is significant in the history of engineering and recreation in the Hudson Highlands. As one of the prime amusements capitalizing on the scenic qualities of the Hudson Highlands, the railway, which enjoyed seventy years of successful operation, is also significant for its contribution to the public appreciation of the region. Although the supporting structures have disappeared, the railway retains its essential integrity of location, design, setting, materials and workmanship.

The presence of wildlife provides ephemeral characteristics. Contrasts of an ephemeral nature are to be found in the subunit. The dramatic effects of varying weather conditions enhance the aesthetic character of the landscape composition as storms, cloud formations, snow, mists, fog and the varying level and direction of sunlight all provide contrasts in line, shape, texture and color, enhancing the contrasts to be found in the area.

Quarrying operations were once widespread in this area of the Hudson Highlands, threatening its scenic value before the State acquired the land for the Hudson Highlands State Park. Evidence of abandoned quarrying operations and a pumping station are minor discordant features in the subunit and do not distract from the scenic value of the area.

The Scenic Hudson Land Trust has acquired 926 acres of Fishkill Ridge at the northern gateway to the Hudson Highlands. The property will be managed and made available for limited public use as a unit of the Hudson Highlands State Park.

Radio antennas located on the summit of North Beacon Mountain are discordant features in the subunit.

C. Views

Views from the ridgelines and summits of the subunit are extensive and include both peaks and shoreline, although they are frequently contained by the woodland cover. Long views are afforded up and down the Hudson River Valley and to the east and west, to the City of Beacon below, to Bannermans Castle and across to Storm King, the City of Newburgh, the Town of Cornwall and the Catskills. Views from the Hudson River are of Breakneck Ridge, the sandy beach and wooded promontory at Little Stony Point and of the steeply rising wooded uplands. Several positive focal points are in view including Storm King Mountain, notably as seen from the public beach area at Little Stony Point; Pollepel Island and Bannermans Castle; and the Village of Cold Spring, all set against the backdrop of the Hudson Highlands. Views of distant sprawling development in the Towns of New Windsor, Newburgh, and Fishkill as well as the Cities of Newburgh and Beacon detract somewhat from the overall visual quality of the viewshed.

III. Uniqueness

The collection of wooded peaks and the long undisturbed wooded ridgeline within the subunit are unique in the Hudson Highlands.

IV. Public Accessibility

The Hudson Highlands State Park subunit is accessible from NY Route 9D, local roads, the passenger trains that run along the shore of the Hudson River and from the Hudson River. All along NY Route 9D and on local roads in the subunit, informal parking areas and trail heads serve both the shoreline and mountainous areas, providing access to the Hudson Highlands State Park. These trails include Little Stony Point and its popular beach area, Breakneck Trail, Washburn Trail, Lake Surprise Road and the Catskill Aqueduct Tunnel Path. The Beacon Range in the north of the subunit, although mostly privately owned, is crossed by many trails developed by the New York-New Jersey Trail Conference. Many spectacular views of the Hudson Highlands are available from these trails. The subunit is visually accessible from surrounding subunits and features in views from Constitution Island, the United States Military Academy at West Point, the scenic overlooks on NY Route 9W and NY Route 218 on the flanks

of Storm King Mountain, and from trails in the Storm King State Park. The subunit is significant in views from outside the Hudson Highlands SASS, notably from the Town and Village of Cornwall, Sloop Hill, the Town of New Windsor, The Town and City of Newburgh, the City of Beacon and the Beacon-Newburgh Bridge.

V. Public Recognition

The Hudson Highlands State Park subunit is valued as extensive and undisturbed mountainous wild lands. The subunit forms the eastern portion of the northern gateway to the Hudson Highlands. The historical and engineering significance of the Mount Beacon Incline Railway has been recognized through listing on the State and National Registers of Historic Places.

VI. Reason for Inclusion

The Hudson Highlands State Park subunit has high scenic quality. It features a diverse and dramatic topography unified by a long, undisturbed wooded ridgeline, a scenic component that is unique in the Hudson Highlands. The subunit is accessible as part of the Hudson Highlands State Park and is visible from local roads, the Hudson River, the passenger trains and from adjoining subunits. It is recognized as part of the northern gateway to the Hudson Highlands. There are a number of minor discordant features in the subunit, but these do not impair the overall scenic quality of the subunit.

APPENDIX C

POLICY 24

PREVENT IMPAIRMENT OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE

Explanation of Policy:

The Coastal Management Program will identify on the coastal area map scenic resources of statewide significance. A list of preliminary identified resources appears in the Appendix (to the NYS Coastal Management Program). The following general criteria will be combined to determine significance:

Quality. The basic elements of design (i.e., two-dimensional line, three-dimensional form, texture and color) combine to create all high quality landscapes. The water, landforms, and man-made components of scenic coastal landscapes exhibit variety of line, form, texture and color. This variety is not, however, so great as to be chaotic. Scenic coastal landscapes also exhibit unity of components. This unity is not, however, so complete as to be monotonous. Example: the Thousand Islands where the mix of water, land, vegetative and man-made components creates interesting variety, while the organization of these same components creates satisfying unity.

Often, high quality landscapes contain striking contrasts between lines, forms, textures and colors. Example: A waterfall where horizontal and vertical lines and smooth and turbulent textures meet in dramatic juxtaposition.

Finally, high quality landscapes are generally free of discordant features, such structures or other elements which are inappropriate in terms of siting, form, scale, and/or materials.

Uniqueness. The uniqueness of high quality landscapes is determined by the frequency of occurrence of similar resources in a region of the State or beyond.

Public Accessibility. A scenic resource of significance must be visually and, where appropriate, physically accessible to the public.

Public Recognition. Widespread recognition of a scenic resource is not a characteristic intrinsic to the resource. It does, however, demonstrate people's appreciation of the resource for its visual, as well as evocative, qualities. Public recognition serves to reinforce analytic conclusions about the significance of a resource.

When considering a proposed action, agencies shall first determine whether the action could affect a scenic resource of statewide significance. This determination would involve: 1.) a review of the coastal

area map to ascertain if it shows an identified scenic resources which could be affected by the proposed action, and 2.) a review of the types of activities proposed to determine if they would be likely to impair the scenic beauty of an identified resource. Impairment will include: (i) the irreversible modification of geologic forms; the destruction or removal of vegetation; the modification, destruction, or removal of structures, whenever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and (ii) the addition of structures which because of siting or scale will reduce identified views or which because of scale, form, or materials will diminish the scenic quality of an identified resource.

The following siting and facility-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly.

Guidelines include:

- siting structures and other development such as highways, power lines and signs, back from shoreline or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore
- clustering or orienting structures to retain views, save open space and provide visual organization to a development;
- incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
- removing deteriorated and/or degrading elements;
- maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest;
- maintaining or adding vegetation to provide interest, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal waters;
- using appropriate materials, in addition to vegetation, to screen unattractive elements; and
- using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

POLICY 25

PROTECT, RESTORE OR ENHANCE NATURAL AND MAN-MADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE, BUT WHICH CONTRIBUTE TO THE OVERALL SCENIC QUALITY OF THE COASTAL AREA.

Explanation of Policy

When considering a proposed action which would not affect a scenic resource of statewide significance, agencies shall ensure that the action will be undertaken so as to protect, restore or enhance the overall scenic quality of the coastal area. Activities which could impair or further degrade scenic quality are the same as those cited under the previous policy, i.e., modification of natural landforms, removal of vegetation, etc. However, the effects of these activities would not be considered as serious for the general coastal area as for significant scenic areas.

The siting and design guidelines listed in Policy 24 should be considered for proposed actions in the general coastal area. More emphasis may need to be placed on removal of existing elements, especially those which degrade, and on addition of new elements or other changes which enhance. Removal of vegetation at key points to improve visual access to coastal waters is one such change which might be expected to enhance scenic quality.

19 NYCRR PART 602

Waterfront Revitalization and Coastal Resources (19 NYCRR Part 602)

1993 Department of State
Division of Coastal Resources
and Waterfront Revitalization
162 Washington Avenue
Albany, NY 12231

COASTAL AREA BOUNDARY, SIGNIFICANT FISH AND WILDLIFE HABITATS, IMPORTANT AGRICULTURAL LANDS AND SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE, IDENTIFICATION, MAPPING AND DESIGNATION PROCEDURES

Section 602.1 Authority, intent and purpose. This Part is adopted pursuant to sections 913(6) and 914(2) of the Executive Law. Its purpose is to implement the coastal area boundary amendment provisions of the waterfront revitalization and coastal resources act, and to establish the procedures and criteria which the Secretary must follow when making designations of significant habitat, agricultural or scenic areas for purposes of 19 NYCRR Part 600. It includes:

- (a) procedural requirements for petitioning the Secretary to amend the coastal area boundary;
- (b) criteria for amending the coastal area boundary;
- (c) procedural requirements for designation of significant fish and wildlife habitat areas, scenic areas of statewide significance and important agricultural lands; and
- (d) criteria for designating significant fish and wildlife habitat areas, scenic areas of statewide significance and important agricultural lands.

602.2 Coastal area boundary amendment procedures. (a) Any city, town or village may petition the Secretary to amend the coastal area boundary. Said petition shall be in the form of either:

- (1) a resolution of the legislative body of the local government within whose geographic jurisdiction the boundary change is located; or
- (2) an element of a final LGWRP submitted pursuant to 19 NYCRR Part 601.

(b) Any State agency may petition the Secretary to amend the coastal area boundary. Said petition shall be in the form of a letter from the commissioner or other head of the petitioning State agency.

(c) The Secretary may amend the coastal area boundary on the Secretary's own initiative.

(d) The Secretary shall amend the coastal area boundary whenever the Secretary determines that the criteria of section 602.3 of this Part have been met. The Secretary shall prepare a written determination with findings in support of each boundary amendment.

(e) Whenever petitioned pursuant to subdivision (a)(1) or (b) of this section, or acting pursuant to subdivision (c), public notice shall be provided by the Secretary in the *State Register* and a paper of general circulation in the immediate area to be affected by the proposed boundary change. A public hearing in the vicinity of the proposed boundary change may be held at the Secretary's discretion. The need for a public hearing shall be based upon the likely public interest because of:

- (1) the uniqueness of the geographic area affected; or
- (2) the potential impact on coastal resources.

(f) Whenever the Secretary is petitioned to amend the coastal area boundary, and that petition qualifies under subdivision (a)(1) or (b) of this section, a determination shall be rendered within 120 days of receipt of said petition. Reasons for the denial of any petition request shall be communicated in writing by the Secretary to petitioners.

(g) Whenever the Secretary determines to amend the coastal area boundary, the Secretary shall make the appropriate changes in the coastal area map and file copies of the amended map with the clerk of each county and local government within whose jurisdiction any of the affected area is located. The Secretary shall also provide a copy of the amended coastal area map to each adjacent local government with any portion of its jurisdiction within the boundaries of the coastal area, and to each appropriate State and Federal agency.

(h) The boundary change shall take effect on the 15th day of the month following the month during which the amended map shall have been filed in the office of the clerk of the situs city, town or village.

602.3 Boundary amendment criteria. The secretary shall amend the coastal area boundary whenever the Secretary finds that:

- (a) an amendment would correct an error in the existing boundary; or
- (b) an amendment would be in furtherance of the policies and purposes of article 42 of the Executive Law.

602.4 Significant resource area identification, mapping and designation procedures. (a) After consultation with appropriate State agencies, the Secretary shall identify and designate on the coastal area map those significant fish and wildlife habitat areas, scenic areas of statewide significance and important agricultural lands which the Secretary finds satisfy the criteria of section 602.5 of this Part. The Secretary shall prepare a written determination with findings in support of each area to be designated.

(b) Before any significant fish and wildlife habitat area, scenic area of statewide significance or important agricultural land is designated, timely public notice shall be provided and one or more public hearings held. Notice shall appear in a paper of general circulation in the area of site designation at least 10 days prior to the hearing date. Said hearings shall be held at a location convenient to those who are likely to be affected by or have an interest in such designations. Public notice shall include the time and location of the hearing, identify the areas proposed for designation, facilitate public comment by announcing the availability for inspection of the documentation supporting the nomination of any site proposed for designation, and by requesting public comment and participation at the hearing.

(c) A significant fish and wildlife habitat area shall be eligible for designation only if it has been identified and recommended for designation by the New York State Department of Environmental Conservation (DEC). The Secretary shall designate all areas identified and recommended by DEC, unless the Secretary finds, after the public review process:

- (1) that there was an error in the evaluation of the area pursuant to the significant fish and wildlife habitat area criteria of section 602.5(a) of this Part; or
- (2) that designation would not lead to the achievement of the purposes of the significant habitat policy found at 19 NYCRR section 600.5(b)(1).

(d) Whenever the Secretary, after public notice, hearing and comment pursuant to subdivision (b) of this section, shall determine to designate one or more areas, the Secretary shall

Mario M. Cuomo
Governor

Gail S. Shaffer
Secretary of State

make the appropriate significant area identifications on the coastal area map, and file copies of the amended map with the clerks of each county and local government within whose jurisdictions the identified areas are situated. The Secretary shall also provide a copy of the amended coastal area map to each adjacent local government with any portion of its jurisdiction within the boundaries of the coastal area, and to each appropriate State and Federal agency.

(e) The designation of significant areas shall take effect on the 15th day of the month following the month during which the amended maps are filed in the office of the clerk of the situs city, town or village.

(f) After consultation with appropriate State agencies, the Secretary may repeal or modify an existing significant area designation, but only after repeating the notice procedure for designation found in subdivision (b) of this section, and only upon a finding that:

(1) there has been an irreversible change in the characteristics of the area which originally met the criteria set forth in section 602.5 of this Part, so that the area no longer meets such criteria;

(2) natural processes have changed the characteristics of the area which originally met the criteria set forth in section 602.5, so that the area no longer meets such criteria; or

(3) that designation will no longer lead to the achievement of the purposes of the 19 NYCRR section 600.5(b)(1), significant habitat area policy for which designation was previously effected.

602.5 Significant resource area criteria. (a) *Significant fish and wildlife habitat areas* are those habitat areas which:

(1) exhibit to a substantial degree one or more of the following characteristics:

(i) the habitat is essential to the survival of a large portion of a particular fish or wildlife population (e.g., feeding grounds, nursery areas);

(ii) the habitat supports a species which is either endangered, threatened or of special concern as those terms are defined at 6 NYCRR Part 182;

(iii) the habitat supports fish or wildlife populations having significant commercial, recreational or educational value; or

(iv) the habitat is of a type which is not commonly found in the State or a coastal region of the State; and

(2) are to varying degrees difficult or even impossible to replace in kind.

(b) *Important agricultural lands* shall meet all of the following criteria:

(1) the lands have soils classified by the New York State Department of Agriculture and Markets as being within soil group 1, 2, 3 or 4 of their Land Classification System found at 1 NYCRR 370.8 (section filed February 2, 1981, effective February 2, 1981); are unique farmland as defined by the United States Department of Agriculture, Soil Conservation Service, at 7 CFR 657.5(b) (revised as of January 1, 1983; available from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402); or are within an agricultural district created pursuant to article 25AA of the Agriculture and Markets Law and actively used for agricultural purposes;

(2) the lands are located outside of any city or the County of Nassau, Westchester, Rockland or Erie;

(3) the lands are part of a parcel of at least 25 acres, or are less than one mile from an area of active farming; and

(4) the lands are located outside of any intensely developed area, as those areas are delineated on New York

State Department of Transportation's 7½-minute series quadrangle maps as filed with the New York State Department of State on July 3, 1984.

(c) *Scenic areas of statewide significance* shall be those areas which the Secretary, upon consideration of the following factors, determines to be of statewide aesthetic significance to the coastal area:

(1) the area exhibits, alone or in combination, the following characteristics:

(i) unusual variety of major components;

(ii) unusual unity of major components;

(iii) striking contrasts between lines, forms, textures and colors; or

(iv) an area generally free of discordant features which, due to siting, form, scale or materials, visually interrupt the overall scenic quality of the resource;

(2) the area is unique in the region or the State's coastal area;

(3) the area is visually and physically accessible to the general public; or

(4) the area is widely recognized by the general public for its visual quality.

EXHIBIT C

Kathleen E. Foley, PhD
2 Locust Ridge, Cold Spring

To the Members of the Nelsonville Zoning Board of Appeals:

As you consider the siting of a cell tower at Rockledge, I would like to express concerns that I have from the perspective of Nelsonville's character and landscape heritage, as well as from our area's inclusion in the Hudson Highlands Statewide Area of Scenic Significance.

I am a resident of Cold Spring and a lover of the Cold Spring Cemetery. I spent many an hour walking there when my children were small, learning the history of your Village and mine. While the children napped, I read stones, learning about local families, and admiring the intentionally-framed views from the cemetery grounds. My interest is not simply as a casual observer. I hold an MA in historic preservation planning; my studies, as well as my thesis, included the conservation and preservation of historic landscapes. My advisor, Dr. Sherene Baugher, is a foremost authority on American burial and memorial practices from the Colonial period through the 19th century, and with her I studied the Rural Cemetery Movement, of which the Cold Spring cemetery is an excellent example. Additionally, I hold a PhD in land use planning from Cornell, and served on the Ithaca Landmarks Preservation Commission. I am currently the Vice Chair of Cold Spring's Historic District Review Board, on which I have served for nine years. I am the principal of Mirador Consulting, LLC, advising municipalities and private property owners on the treatment and preservation of historic structures and landscapes.

The Hudson Highlands Scenic Area of Statewide Significance

Our SASS was the first to be named in New York State, in 1993. Our scenic resources, in my view, make the single greatest contribution to our community's visual character and quality. The aesthetic significance of our area is recognized and protected by New York State, and by our community. We live here because the Highlands don't look or feel like anywhere else. Folks visit our area for the same reason. The scenic nature is visually appealing, and it is also THE driving factor in our local economic livelihood. Folks want to come here and spend their money because of our unique character, not because we look like anywhere else. It's a landscape people care about -- and one that New York State has recognized. If we damage or lose our visual character, we not only lose beauty for ourselves, but we damage our heritage, and our ability to draw visitors and, critically, visitor spending. The economic impact of marring our aesthetic character would be real.

I have looked at GIS overlays of cell tower locations in all 17 SASS districts statewide. There are only three such locations:

- 1 in the Hither Hills District on Long Island
- 1 on Mount Beacon in the Hudson Highlands SASS
- 1 at West Point in the Hudson Highlands SASS

None of the other 15 SASS districts have cell towers placed in them. That is, the Hudson Highlands SASS area already bears an undue burden for cell tower placement. We are already an outlier, and we should not bear the burden of any additional tower construction. Previous cell tower construction does not justify future tower construction--in fact, it creates more justification for caution and prudence.

One could argue that the HHSASS already has three towers, so what's one more? I would counter-argue that further tower construction would increase impact on a SASS area already visually-compromised by cell towers. That means that the protection of our viewshed moving forward is even more essential. We also must consider the circumstances of the towers we already have here.

(a) The HHSASS was designated in 1993. I believe that the Mount Beacon tower predates the designation, and is grandfathered. Grandfathering extends only to existing incursions--it does not justify the addition of new incursions.

(b) The second of the cell towers in the HHSASS is at West Point--an important military installation. I think we all acknowledge the need for such an installation on that site for multiple strategic and security reasons. However, that circumstance merely demonstrates the unique nature of that tower and the unique need for it -- it does not clear the way for unmitigated new tower construction on other sites in the HHSASS.

For these reasons, I am opposed to additional cell tower construction in the Hudson Highlands Scenic Area of Statewide Significance.

Potential Eligibility for the Cold Spring Cemetery on the National and State Registers of Historic Places

As you are likely aware, the Gate House of the Cold Spring Cemetery, but not the grounds, was designated to the State and National Registers of Historic Places in 1982. It is not uncommon for designations made in that era to include only buildings and

not their surrounding landscape--we simply weren't thinking about heritage landscapes as we do today. That is, the Cold Spring Cemetery grounds weren't "seen" and appreciated in the way we see and appreciate historic landscapes now. In fact, the Secretary of the Interior now considers landscape context much more strongly than it did 35 years ago. It is my professional opinion that there are solid arguments to be made for the expansion of the cemetery's designation on the national and state registers to include the surrounding landscape.

The Cold Spring cemetery has direct design and concept lineage to the 19th century Rural Cemetery Movement. That movement, in turn, drove the establishment of public parks in American cities and towns. More research is needed, but indications are that the designers, Mead & Woodward, worked very much in both the design aesthetic and business model of A.J. Downing (in their Gate House design and pattern book production), as well as that of Dearborn, Bigelow & Wadsworth (designers of Mt. Auburn cemetery in Boston) in their siting decisions for the Cold Spring Cemetery. It is a small-scale, vernacular interpretation of Nationally-listed cemeteries like Green-Wood in Brooklyn and Mt. Auburn, among others. Cold Spring's and Nelsonville's movers and shakers at the time of the cemetery founding, 1862, had strong ties to the urban design circles that were leading the rural cemeteries and parks movements--Julia Butterfield, for example, was a darling of Manhattan salons. We had an aristocratic class here that was strongly tied to their peers in New York and held court locally in the burgeoning villages that prospered along with the Foundry in the 1860s. The rural cemetery they developed here reflects the growing design ethos for green space in dense communities, as well as the evolution of thinking about death and memorialization in America. The Rural Cemetery Movement, and the picnicking and parading it inspired, was about being seen in death as well as in life--being admired by peers and the public. And we are lucky that today we can admire and take part in their design foresight, as well. The grounds are full of majestic specimen trees, the road and pathways are largely intact, as is the clustering/hierarchy of monuments, and we see clearly the view-framing that was intended by Mead & Woodward. For these reasons, I believe that the cemetery grounds are very likely eligible for listing on the National and State Registers of Historic Places, along with the Gate House, under the following criteria:

CRITERIA A: association with events that have made a significant contribution to the broad patterns of our history

- Rural Cemetery Movement heritage and design associations
- reflective of progress and wealth associated with the Foundry at the peak of its productivity -- The Foundry is State and Nationally-listed

CRITERIA B: association with the lives of significant persons in our past

- Mead & Woodward: their body of work and their potential importance regionally and/or statewide
- burial place of Julia Butterfield, who is of state and national significance because of her family's affiliation with West Point and the growth of Cold Spring; she is of high local significance within the Village of Cold Spring's nearby local/state/national Historic District
- burial place of Ludwig Novotny, founder of the Globe Slicing Machine Company (inventor of the deli meat slicer) and the founder of the Valhalla Highlands community -- itself recently listed on the National Register for its high degree of integrity as an example of eclectic, early 20th century second-home communities
- there are others of state and national significance who can be researched

CRITERIA C: embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction

- design related to Mount Auburn, Green-wood, and other, already-designated examples of the Rural Cemetery Movement
- there is continuity in design from the Gate House to grounds, including the intact exterior wall -- the building and its grounds were designed together and intended for understanding in relationship to each other

Given the potential eligibility of the Cold Spring Cemetery's grounds, and the visual impacts a cell tower on Rockledge would have on the cemetery and the graves of prominent citizens, I am opposed to tower construction in the viewshed of the cemetery.

Thank you for your consideration, and thank you for your service to your Village and community.

Respectfully,
Kathleen E. Foley, PhD
[2 Locust Ridge, Cold Spring](#)



VILLAGE OF COLD SPRING

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vcswater@bestweb.net

CHARLES NORTON, HIGHWAY DEPARTMENT CREW CHIEF

highway@coldspringny.gov

November 8, 2017

The Village of Nelsonville
258 Main Street
Nelsonville, NY 10516

Mayor O'Neill and members of the Nelsonville Village Board of Trustees:

The members of the Cold Spring Historic District Review Board are compelled by our conscience to express our opposition to the plan for a new cellular tower dominating the viewshed of the Cold Spring Cemetery, as well as the alternate plan for a tower immediately overlooking the Mountain Avenue Cemetery, the Cedar Street Cemetery, and the Nelsonville preserve. This site is adjacent to the National Historic District, so recognized for its unique contributions to the history of New York State, and would be visible from Town Hall and the Methodist Church, two important buildings contributing to our District, as well as dozens of individual homes. The tower will also be visible from the Cold Spring Baptist Church, which is listed on the National Register, in addition to several other individually listed properties. We as a board are charged with protecting the character of the District, and the community is invested in protecting it as well.

Tourism is a driver of our local economy. Just a few months ago, The Highlands Current reported that tourism added nearly \$65 million to Putnam County's economy, contributing \$4.5 million to local taxes alone. This is not money that should be left on the table. Tourists come here because of our Villages' architectural and scenic beauty, and their distinct character — unlike most places, this character remains intact. It makes Philipstown a place that all people, residents and visitors alike, cherish. The installation of this cellular tower would mar the visual character of the Historic District.

This is not an overreaction to modernity or change. In our capacity as a board, we frequently (and enthusiastically) review applications seeking to incorporate necessary modern materials, forms, or technologies into our historical context. We are not opposed to making space in a historic setting for such advancements, and address each on its merits, benefits, and sensitivity to their surroundings.

Our strong historic character, both inside and outside of the Historic District, is a shared resource that benefits all residents of Philipstown. It is also a shared responsibility to care for and foster its integrity. To allow such a construction without question is an abdication of this responsibility.

Respectfully,

The Village of Cold Spring Historic District Review Board



SARAH JOHNSON
COUNTY HISTORIAN

**THE PUTNAM COUNTY HISTORIAN
& PUTNAM COUNTY ARCHIVES**
68 Marvin Avenue Brewster, New York
10509

SALLIE SYPHER
DEPUTY COUNTY HISTORIAN

October 31, 2017

Nelsonville Village Office
Zoning Board of Appeals
William Rice, Chairman
258 Main Street
Nelsonville, NY 10516

Dear Mr. Rice:

The Putnam County Historian's Office has been asked to advocate for the integrity and historic preservation of the Cold Spring Cemetery on Peekskill Road and Rockledge Road in Nelsonville. As you know, the Neo-Gothic Gatehouse is on the National Register of Historic Places. The cemetery itself is the final resting place of many influential citizens of Garrison, Cold Spring, and Nelsonville. This cemetery embodies the historic period integrity of location, Neo-Gothic design, bucolic setting, period workmanship, as well as the importance of this cemetery to the community and community awareness of our shared cultural heritage. As a result of these considerations, we would advocate for finding an alternative, less historic location for the Homeland Towers cell tower.

We hope you will give this historic advocacy all due attention and consideration.

Sincerely yours,

Sarah Johnson, Ph.D.
Putnam County Historian



(PHONE) (845) 808-1420
(FAX) (845) 808-1962
HISTORIAN@PUTNAMCOUNTYNY.GOV

WWW.PUTNAMCOUNTYNY.COM/HISTORIAN
WWW.PUTNAMNY200.COM

Village of Nelsonville
Zoning Board and Planning Board

11/27/2017

To the Nelsonville Zoning Board and Planning Board:

I am writing in opposition to the cell tower at the Rockledge Site as a resident of Cold Spring and a landscape design professional. I have a Masters in Landscape Architecture from the University of Pennsylvania and own a local Landscape Gardening business.

The cemetery, designed in 1862-1865 by Peter Mead and George Woodward, is a prime example of nineteenth century cemetery design, one of the earliest form of public park.

At the time of the design, Mead and Woodward were editors of 'The Horticulturalist', an influential journal founded in 1847 by Newburgh native AJ Downing. Downing is a seminal figure in the history of landscape, a leader in ideas in the generation before Frederick Law Olmsted. Downing used 'The Horticulturalist' to popularize his ideas on "rural art and rural taste", improving ideas in agricultural and to develop a vernacular architecture and in American towns and villages.

Downing died in 1852, so it is fair to say that Mead and Woodward were his heirs in their practice of architecture, civil engineering and landscape design, and the popularization of burgeoning ideas about the role of landscape in the urban and rural context. Throughout his tenure as editor, Woodward wrote a series of essays with the theme "Landscape Adornment," covering a range of topics in the developing field of landscape design. In fact, the cemetery is contemporary to Central Park, which was begun in 1858 with the design competition won by Vaux and Olmsted. Olmsted first called himself a Landscape Architect in 1863, essentially inventing the term and the profession.

It is so remarkable that our local cemetery is at the nexus of this extraordinary moment in the history of landscape design. The land here is beautiful - a 19th century design with a beautiful collection of mature specimen trees including stunning European Beeches, Weeping Beeches, and a fine collection of coniferous trees. This designed landscape is nestled into an undisturbed woodland forest with rock outcrop and native woodland trees.

There is no doubt that this landscape would be marred by the addition of the cellphone tower. The cell tower company itself produced the rendering that shows the tower disguised as a tree, so fake it is absurd, towering above the mature trees and natural landscape immediately as you enter the cemetery. Attached to this email you will find one of Woodward's essays for the Horticulturalist, a piece on the importance of the "Approach" to rural architecture. This tower and the views it affords would certainly be an affront to these concepts.

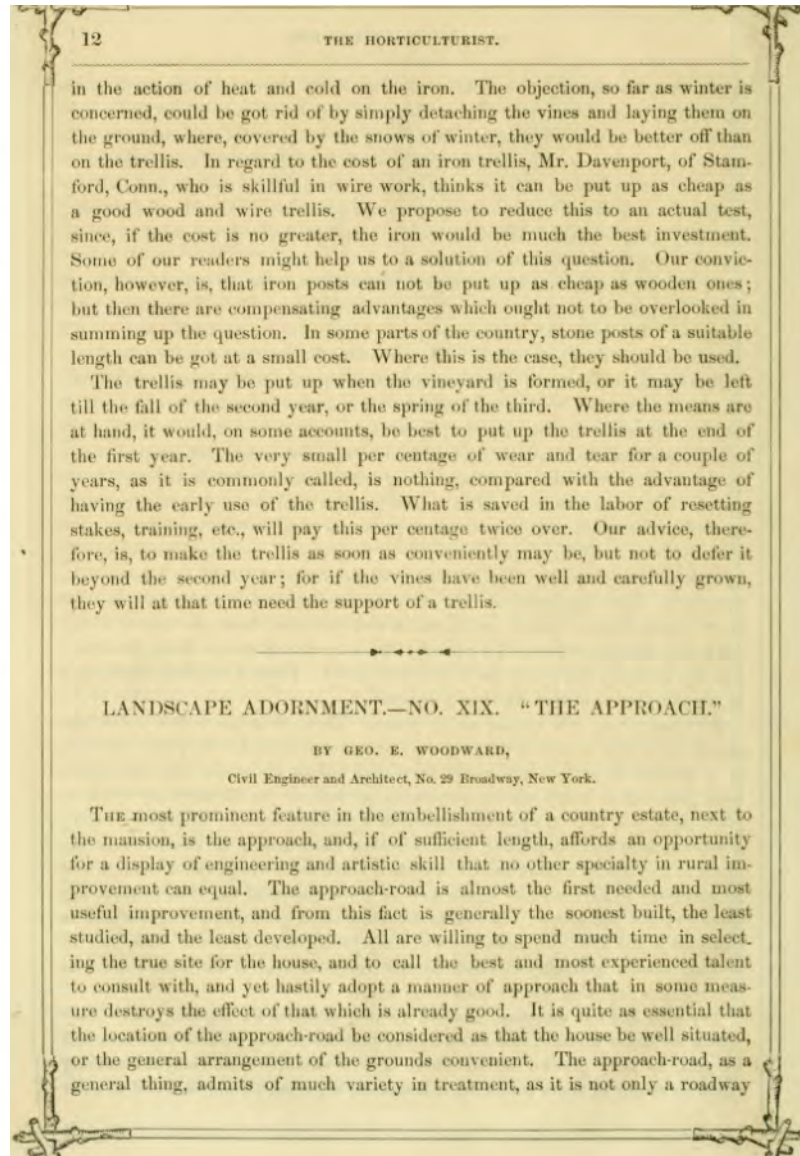
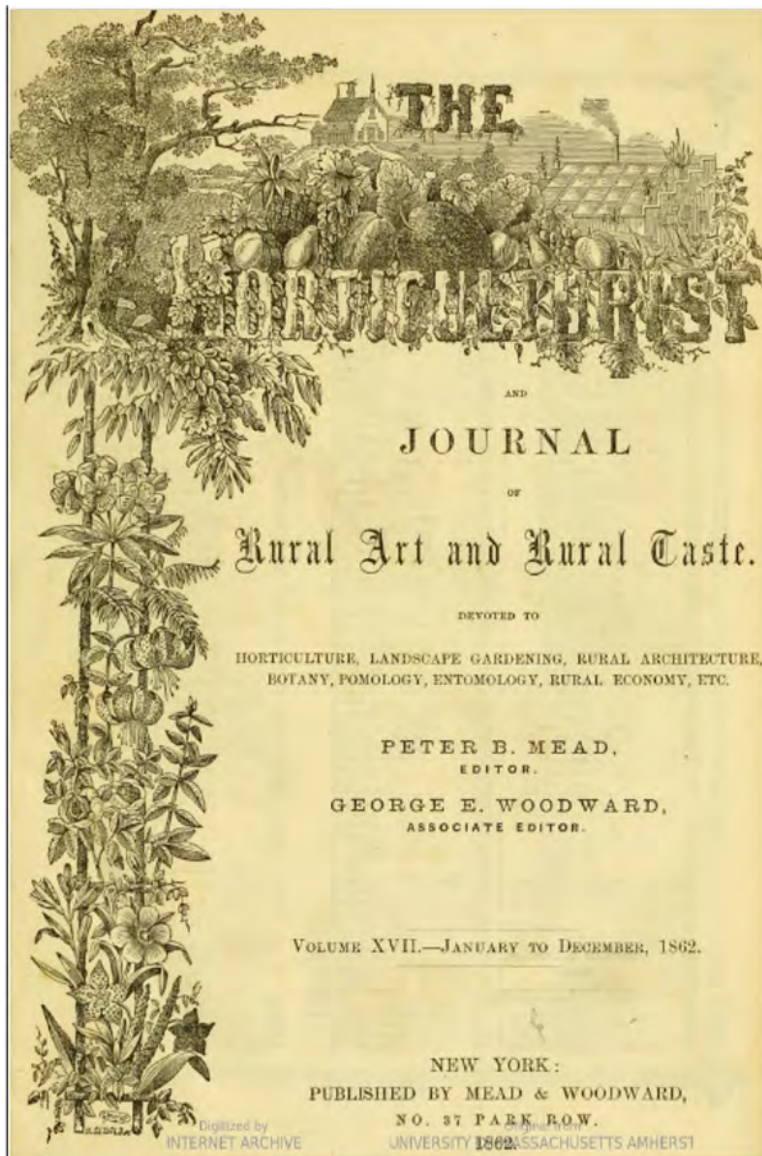
Please do what you can to save this historically significant work of landscape and oppose the Rockledge Cell Tower.

Sincerely,



Liz Campbell Kelly, ASLA
Principal, Hudson Garden Studio LLC
MLA University of Pennsylvania

HUDSON GARDEN STUDIO LLC
www.hudsongardenstudio.com
16 Fishkill Ave
Cold Spring NY 10516



for practical purposes, but one from which the grounds and the house are to be displayed to the best possible advantage, appropriating that which is good, and avoiding that not worthy of notice.

In tracing its course through all the variety which such roads usually embrace we shall find there is much more skill and taste requisite to make the most of every thing than is generally supposed.

There are very many good sound reasons why the curve line should be adopted in the location of an ornamental road, and the facility given to use all natural resources for its embellishment is a strong one in favor of its use in the approach; but an indiscriminate and injudicious use of the curved line would not be wise. It is possible to distort and misapply almost any thing of beauty, as objects beautiful in themselves may form a hideous combination.

It is hardly necessary to repeat again the old threadbare piece of advice, that no curve should be used without a reason, and if none exist, one must be created; this is pretty well understood by every one, and needs no further remark. With regard to the straight line, there are places where its use is the most preferable, but its general use is not consistent with natural landscape treatment. In approaching the house by the straight avenue, as was customary in the formal style, the view was that of an architectural elevation, showing one front of the house. In the natural style, the house should be approached so that it is viewed perspectively; then, if there is variety in its form, the lights and shadows, and the well-managed accessories, give an artistical effect, and it becomes a picture.

It is not the best management to show all the good things one has at once, but rather to hold out inducements to lead one on in the pursuit of new pleasures, to find a new view, or a pleasing surprise.

The graduation of an approach should be well studied, so that the least quantity of earth is removed and deep cuttings and embankments avoided. It is a skillful matter to find that medium line that lies between all extremes, and still more difficult to please the fancies of all one's friends; yet such a line can generally be found, that in its gradual ascent, economical construction, easy flowing curves, and captivating views, shall explain to one of tasteful appreciation the reason why it occupies the position that it does.

It must be considered that well-adjusted gradients mark a high class of road construction, not necessarily more expensive, but most frequently quite the reverse. Scientific road-construction is as much a matter of economy in the first cost as it is in the annual repair, and there is quite as much effect developed in ascent and descent as there is in direction; and as a needless curve appears badly, so does a needless grade. The surface should be hard and smooth, and the road constructed of the best materials that can be had, and there should be in all that appertains to it a very decided difference from the public highway.

The width of a road must be governed to some extent by its length, and by the manner in which it is proposed to be kept. A wide road in fine order expresses

an air of dignity and grandeur, yet, if too short, disappoints, because of the attempt to show what does not exist. As a general rule, the minimum width should be ten feet on approaches of moderate length, and increase in proportion to distance to 12, 14, 16, 18, or 20 feet wide. The chances of passing carriages on a road increase with its length, yet on one of 300 to 500 feet long it is rare, except on unusual occasions, for carriages to meet. A wide road implies frequent use, and therefore neglect would destroy its impressions; neatness and fine keeping are essential to its importance and effect.

As a general rule, there should be no deviation from the approach road before reaching the house; to a stranger there should be no doubt raised as to which should be the proper road for him to take; and whenever it becomes necessary to branch off for any purpose whatever, it ought to be at points from which the house is in sight, and the branch roads take such a direction at first as to lead one to suppose that the house could not be reached by them; they should also be inferior in width and character, and, as far as possible, so managed as not to be mistaken for the main road. It may be a question difficult to decide, whether it is proper to see the coach-house, or other out-buildings, from the approach; although we would prefer to see no inferior buildings prior to seeing the house; yet, if they must be so treated, they ought to come in sight together, and the coach-house, or other building, be beautiful in its architectural appearance; and let its architecture be truthful, that it be not mistaken for any thing but what it really is; then it becomes an object of admiration, and soon left for the grander proportions of the mansion, without a thought that it would be more proper if occupying a less prominent position. Considerable liberty may be taken with the location of an approach road, until that part of it is reached from which the house is visible; its general direction should then be towards the house, and not to pass it and return. A leading principle governing the location of an approach road is, that it is a road leading from the highway to the house, and that its course should be nearly direct, its entire alignment, graduation, construction, embellishment, &c., to be made with a view of developing a high order of beauty, usefulness, and effect, all of which is attainable at even less expense than in those locations which have little or no meaning, and which undervalue the true character of the landscape.

TSCHUDY'S HERBACEOUS GRAFTING (GREFFE HERBACEE) AGAIN.

BY HORTICOLA.

MANY readers of the *HORTICULTURIST* will be very thankful to Mr. Charles Moré for having called their attention to a mode of grafting so easy to perform,




Photograph Information	
Date:	April 18, 2017
Time:	11:29am
Focal Length:	50mm (film equivalent)
Camera:	12.2mp Canon EOS DSLR
Photo	41° 25' 20.2404" N
Location:	73° 56' 37.1904" W
Distance:	720 Feet
Visibility:	Year Round

The above photograph is intended to be viewed 18 inches from the reader's eye when printed on 11"x17" paper.

Figure 5b

Simulated Condition
VP11 - Cold Spring Cemetery (near historic Gatehouse)

SARATOGA
ASSOCIATES



HOMELAND TOWERS

Visual Resource Assessment
PROPOSED TELECOMMUNICATIONS TOWER

Cold Spring Site (NY170)
15 Rockledge Road
Nelsonville, NY





Parks, Recreation and Historic Preservation

ANDREW M. CUOMO
Governor

ROSE HARVEY
Commissioner

November 22, 2017

Ms. Laura Mancuso
CBRE
Director, Cultural Resources
4 West Red Oak Lane
White Plains, NY 10604
(via email)

Re: FCC
New Cellular Communications Tower/Stealth Mono-Pine/110 Feet/NY170
15 Rockledge Road, Nelsonville, Putnam County
17PR06164 / 0007902925

Dear Ms. Mancuso:

As you know, this undertaking has raised several questions concerning perceived unassessed potential impacts to historic resources within the project's area of potential effect (APE). To date our office has received several calls from local officials concerned about our Section 106 review.

Although we had previously concurred with your finding of No Adverse Effects for this undertaking, these questions required me to re-evaluate the project file. In my review, I noted that the APE contains 13 individually listed resources as well as a portion of one historic district. This is a significantly high concentration of National Register listed properties within a one-half mile radius of a communication tower project site. We have also noted that at least one property, the Cold Spring Rural Cemetery had not been previously identified in our survey data during the review process. We have formally identified the cemetery as eligible for inclusion in the National Register of Historic Places. We also note that you had already considered this resources in your visual analysis.

At this point in time our office is not prepared to seek to reopen the review process with the FCC. However, we would ask that any alternatives analysis that was done for this site location be provided to us for further review. We are particularly interested in any documentation of other sites that had been considered as well as alternative lower heights that may have been evaluated for the proposed tower.

If you should have any questions regarding our request, please do not hesitate to contact me at (518) 268-2166 or john.bonafide@parks.ny.gov.

Sincerely,

John A. Bonafide
Director,
Technical Preservation Services Bureau
Agency Historic Preservation Officer

cc: Jill Springer, FCC, Acting APO (via email)
Hon. William O'Neill (via email)

Division for Historic Preservation

P.O Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • www.nysparks.com

November 28, 2017

Zoning Board of Appeals
Planning Board
Village of Nelsonville
258 Main St
Nelsonville, NY 10516
via email

To the Nelsonville Zoning and Planning Boards:

I am writing in regards to the current application before you by Homeland Towers to place a 110' tower and associated facilities structures at 15 Rockledge Rd directly adjacent to the Cold Spring Cemetery.

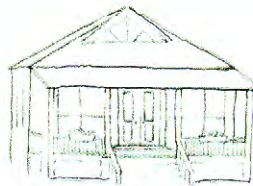
I wanted to formally notify the board that a coalition of citizens has retained professional services and is in the process of applying for the Cold Spring Cemetery to be added to the National Register of Historic Places. As you are aware according to the 11/22/2017 letter copied to your attention from John A. Bonafide, Director, Technical Preservation Services Bureau, NYS Division of Historic Preservation to Ms. Mancuso of CBRE, the state has "formally identified the cemetery as eligible for inclusion in the National Register of Historic Places".

Our application will include reference to the historic character of the landscape as it relates to the historic structures and notable monuments and the original wall. We ask that you please do not allow such a discordant structure to impact this landscape—as it is an important component of this eligible National Register landmark.

Thank you to all board members for the considerable time and effort you are expending on this application process on behalf of all those in the village and all of us in your wider community. I believe that your tireless work on this application will be remembered and referenced long after this matter is decided. Our community looks to you for leadership in this unavoidable balancing act. We have the pressures brought on by the needs of an expanding wireless industry on the one side and on the other the imperative for us as a community to ensure this kind of development happens in ways that protects and preserves our important scenic and historic character. These forces don't have to be totally at odds! We can support our wireless service AND preserve our scenic and historic character. We look to you to reject this application and require the wireless industry to come up with an alternate plan more suited to a heavily scenic and historic community.

Thank you, from your neighbor and frequent visitor to the Cold Spring Cemetery,

Jennifer Zwarich
Cold Spring, NY



1. Nelsonville Village Hall
258 Main Street



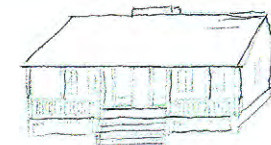
2. 258 Main Street



3. Secor & North Pearl Street



4. 39 Secor Street



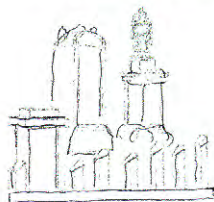
5. 40 Secor Street



17. Nelsonville Preserve Kiosk



16. 3 Crown Street



15. Mountain Avenue



14. Main Street



13. 249 Main Street



12. 251 Main Street



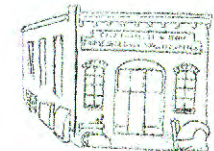
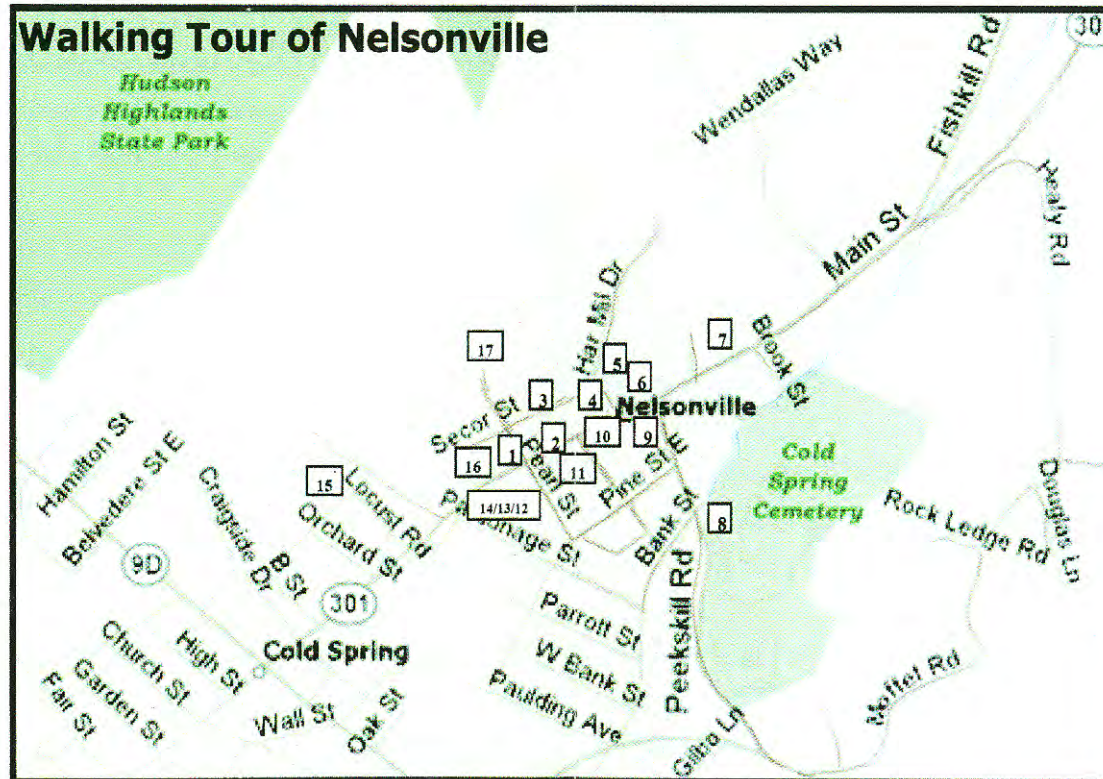
11. Village Green



10. 270 Main Street



9. 289 Main Street



6. 286 Main Street



7. 328 Main Street



8. Peekskill Road

WALKING TOUR GUIDE

1. **Nelsonville Village Hall** - 258 Main Street: The Adirondack style building was erected about 1905. Originally the Fish & Fur Club, the building is now used as the Village office.
2. **Nelsonville Village Hall** - 258 Main Street: The smaller building, once home of the Fish & Fur Club was also home to the Nelsonville Fire House and is used by the Village of Nelsonville. *
3. **Philipstown Masonic Lodge # 236** - Secor & North Pearl Street: This building was built in 1880 as the Hickory Grove Academy or Nelsonville School. The last graduation class was in 1936. On April 27, 1937 the building was sold to the Free and Accepted Masons for \$3,000.
4. **Toll House** - 39 Secor Street: One of the two early Toll Houses in the area.
5. **Pear Tree School** - 40 Secor Street: Built in 1830 this private residence was the first school house in the village of Nelsonville.
6. **Champlin, H.D. & Son Horseshoeing and Wagonmaking** - 286 Main Street: This multi-generational horseshoeing and wagon-making shop is owned by Norman Champlin, who carries on in his father's stead. Today the building is home to Mr. Champlin's welding business. *
7. **Toll House** - 328 Main Street: One of the two early Toll Houses in the area run by Caleb Hustis . *
8. **Cold Spring Cemetery** - Peekskill Road: Burial site for many notables including Warren and Emily Roebling, builders of the Brooklyn Bridge. *
9. **Dykman, J.Y. Flour and Feed Store** - 289 Main Street: The site of various grocery and deli style stores was formerly owned by Thomas W. Jaycox. *
10. **Private Residence** - 270 Main Street: In his speech on the porch of this home Elisha Baxter named the growing community "Nelsonville" in honor of successful business man Elisha Nelson.
11. **Village Green** - Corner of Main & Pearl Street: This property was bought by the Open Space Institute, along with 100 acres adjacent to the Village and in 2001 was donated to the Village of Nelsonville.
12. **J. Y. Dykman's Store**- 251 Main Street: Formerly a grocery and feed store owned by James Y. Dykman. *
13. **Private Residence** - 249 Main Street: *
14. **Baptist Church** - Main Street: Established as the First Baptist Society of Philipstown around 1830 is now known as the First Baptist Church of Philipstown. It cost \$825 to construct the building. In 1854 the steeple with bell and lecture room were added at a cost of \$1,200. It is the oldest house worships in which services have been conducted in the same structure for approximately 174 years. *
15. **Cold Spring Cemetery** - Mountain Avenue: Although not located in the village of Nelsonville, this cemetery is the burial site of Elisha Nelson.
16. **Private Residence** - 3 Crown Street: *
17. **Nelsonville Preserve** - North Pearl Street: Runs along the foot of Mt. Taurus on the northern edge of town. The Village of Nelsonville has been named the "The Hikers Hamlet" by the New York State Greenway Conference, and boasts a well marked and beautifully maintained system of trails connecting the Village Green to the summit of Mt. Taurus and the rest of the Hudson Highlands state park.

**Listed on National Register for Nelsonville*

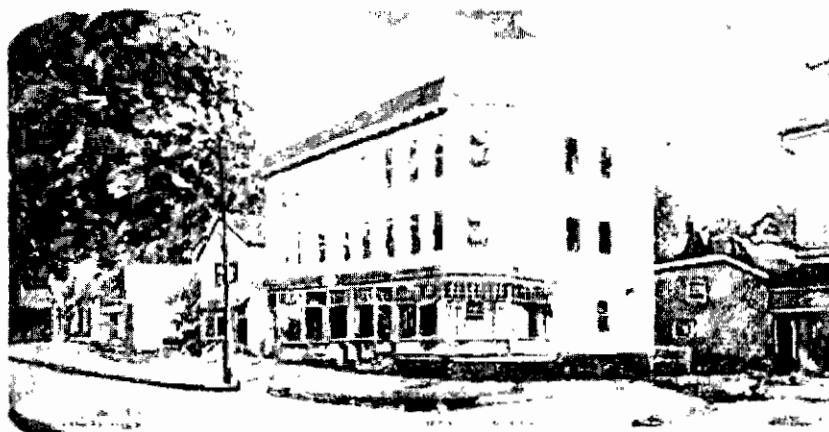
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From the Mayor:

It is impossible to reflect on the progress of the Village of Nelsonville without acknowledgement of so many people who have contributed to the vitality and quality of life in this community. Whether serving as a member a committee or volunteering time for specific projects, Nelsonville residents have consistently demonstrated a willingness to work together.

Despite of the significant changes in the Village since its centennial, there remains a sense of stability here that is not found in many other places. I have found, in my twelve years of service to this Village, that it requires more effort to maintain these good qualities than it does to address opportunities to improve. We have changed, yet we have maintained the character and quality of Village life. Nelsonville would surely be a different place than it is today if not for the efforts of individuals who have cared about the future of this Village.

I hope that future generations will answer the call to public service and understand the importance of their stewardship. It has truly been an honor and privilege to serve this community and to work with so many dedicated individuals.

Respectfully,
Mitchell W. Dul
Mayor
Village of Nelsonville

When we started this task five and a half months ago, we really had no idea what we were walking into. As the sesquicentennial celebration gained momentum and the work became more and more complex and involved, the one thing which became very evident was how important were the people who dedicated themselves to this project.

Through the efforts of a core group of a dozen people we hope we will provide a commemoration of a significant anniversary for a community quite different from the one that celebrated the centennial anniversary of fifty years ago.

Having lived in Nelsonville for "only" thirty three years, after having grown up in Cold Spring, I enjoy working with new residents, some having arrived as recently as a year ago, who are working extremely hard to learn about their adopted community and giving back a great deal long before they are asked. And it is a pleasure to watch several "old timers" who are imparting history that was never written down.

Of course, those no longer with us left us a legacy in their scrapbooks and published histories that has proven invaluable in bringing the past alive and connecting with the present. In particular, Helen Jimenez and her brother, Nelson "Fessor" Delanoy were fastidious in their recording of the history of their village. Other life-long residents who helped us bring centennial histories up to the 150th include Ray Champlin, who produced an update on the one church in the village, the Baptist Church; Chet Warren, who was a member of the Nelsonville Fire Company longer than any other person in the village; Phil Schatzle for his persistent search for any and all veterans; and especially the four former mayors who recounted the unique accomplishments of this little village in the better part of the last fifty years.

A special mention must be made of the two clerks without whom this would not have been possible.

To Pauline Minners, who, without complaint or delay, typed up dozens of letters of invitation, kept track of expenses and generally kept an eye on me, many thanks. To Josephine Doherty, whose long-term stewardship as village clerk/treasurer and "chief cook and bottle washer" was the one constant through many mayors, trustees, zoning boards, planning boards, village code changes, etc. Her appreciation for the history of the village and diligent archival work has provided us with a significant written and pictorial record, on which a great deal of the project has been based.

Later, by name, due consideration will be given to the others of this group who gave countless hours on the keyboard, going door to door soliciting ads for the journal and any number of other tasks such as "on-line shopping" and utilization of modern skills unknown fifty years ago, which were instrumental in bringing all this together.

So to any and all reading this and participating in our village's day, we welcome you and hope to see you for the "Bicentennial."

Anthony Merante,
Chairman, Nelsonville 150 Committee.



Nelsonville Sesquicentennial Committee

Front row: Hilary Hayes, Tony Mazzuca, Josephine Doherty
2nd row: Jane D'Emic, Tania Dirks, Valerie Robertson, Jo Pitkin
3rd row: Paula Gallagher, Marlene Bowman, Louie Miranda, Jon Bradley
4th row: Anthony Merante, Matt Hereford, Mike Bowman, Phil Schatzle, Peter Tomann
Absent from photo: Greta Graham & Judy Meyer



Nelsonville Centennial Committee

Standing- Ben Frazier, Gertrude Gilbert, Tom Jaycox, Edward "Zeb" Collard, Harry Hustis, Richard Mekeel, George Jimenez, Seated Louise Hustis, Kathleen Lyons, Ethel Jaycox, Helen Jimenez, Mabel Merritt, Olive Adams.

General Information

By Peter Tomann

Nelsonville, incorporated in 1855, a village of the fourth class, is situated in the Town of Philipstown, Putnam County, New York. According to the 1950 census, its population is 522. Our high Population was 765: our low in 1915, with 379 people. The 2000 census lists 565 residents.

Its Government consists of a mayor and two trustees as its legislative body, a Village clerk who doubles as treasurer, a building inspector, and village justice.

Public utilities serving the village are the Cold Spring Village Water System and the Central Hudson Gas and Electric Corporation.

Cold Spring Volunteer Fire company provides fire protection and emergency services along with the Philipstown Volunteer Ambulance Corp.

The village does not maintain a sewer system but has a contract to collect garbage once a week.

The Putnam County News and Recorder is the official paper.



A History of Nelsonville

*Originally by Miss Olive Adams, Mrs. Thomas W. Jaycox and Mr. DeLanoy
Updated by Michael Bowman and Josephine Doherty*

Early History

Nestled within the lofty heights of the majestic Hudson Highlands, sits our little village known as Nelsonville. It is situated alongside the Village of Cold Spring, approximately fifty miles north of New York City. The village limits hug the southern base of Mt. Taurus, just up the hill from the Hudson River. It is located within the confines of Putnam County and the Town of Philipstown.

The early history of our village extends back as far as the earliest settlers of the Hudson Highlands region. In 1691, two Dutch traders purchased a portion of what would become Putnam County from the Wappingers Indians for a "competent" sum of money. On June 17, 1679, Adolph Philipse purchased the portion from the Hudson River to the present day Connecticut border (which now includes Nelsonville) and is known through history as the Philipse Patent. In 1737, the Colonial Assembly designated the Philipse Patent as the South Precinct of Dutchess County, and the Philipses began leasing farms to immigrants from Massachusetts, Connecticut, Long Island and lower Westchester. It wasn't until March 7, 1788 that "Philipstown" was incorporated by the state of New York, and not until June 12, 1812 that the County of Putnam was formed in honor of the valiant General Israel Putnam, who had commanded the Revolutionary troops stationed in the region.

Although the greater Cold Spring/Nelsonville area was first settled in 1715 by Thomas Davenport, it wasn't until a hundred years later, following the War of 1812 that the economic and strategic importance of the Hudson Highlands would support the settlement of hamlets, towns and villages. Thus, after the United States Congress decreed that a national foundry should be built along the Hudson opposite West Point in 1818, the region saw a great transformation. Places such as Nelson's Landing (founded before the Revolution and now known as Garrison) and Cold Spring (incorporated April 22, 1846) began to grow and prosper. The Hudson Highlands at the middle of the 19th century, thanks to the West Point Foundry, was literally the epicenter of the early American industrial

revolution. It was within these times of unprecedented prosperity and growth that the Village of Nelsonville was formed.

Incorporation

The Village of Nelsonville derives its name from Elisha Nelson, who was born on May 26, 1777 and died in 1852. Elisha is buried in the northwest



Elisha Nelson

corner of Davenport Cemetery, which is located at the crest of Mountain Avenue near the intersection with Cedar Street. Not much is known of Elisha Nelson, beyond the fact that for many years he was a tenant, holding a large farm under the Gouverneur family (who had purchased a slice of the original Philipse patent). The West Point Foundry stood on a part of this farm. His first home was on the south side of the present Main Street, and east of the road leading to Garrison. Later "Uncle Elisha," as he was destined to be known, built another home on land situated on the North side of Main Street, which is bounded today on the east by Spring Street. After

World War II a new house was erected on this site by Mr. and Mrs. Harry Mekeel and still stands today on the corner of Spring Street across from Champlin's Blacksmith shop.

Although no source exists to tell us what kind of man Elisha was, we can conjecture that he was a successful business man who arose from being an obscure tenant farmer to a man of local notoriety. After building his first home, Elisha bought three acres and built another house a short distance to the west, owned by John Lott. Other houses to the west quickly followed and were built by Joshua Purdy, Miles Burnell, Elisha Baxter, and Louis Squires. When the last house was erected a speech was made by Elisha Baxter upon the porch of the present 270 Main St., in which he named the growing community "Nelsonville."

An unsubstantiated myth of local history was once told by the late Judge Chester Nelson, who stated that the name of the Village was actually decided by the flip of a coin, as the Nelsons and Warrens were the most populous families in the community at the time. Although Judge Nelson's story cannot be verified it is interesting to wonder whether history would have been different if we had lived in Warrensville.

Despite the fact that Uncle Elisha was a successful businessman and lent his surname to our sleepy little village, he like everyman, also had his

faults. One of which was his desire for more wealth. This explains his obsession with the idea that he could find Captain Kidd's treasure that was said to be buried anywhere from the Dutch East Indies, Block Island, the Connecticut River Valley and yes, the Hudson River Valley. Stories tell of how he would dream and dream, and was so sure of finding the treasure that he made several attempts secretly to find it. Finally, he openly engaged George Barton, an expert at digging and handling stone, to superintend the excavating and removing of rocks in different places of the town which Uncle Elisha had an idea the treasure was buried, but all to no purpose, for the treasure was not found. One should note that now in 2005, there are a number of permits which must be obtained before digging for buried treasure within Village limits...please call before you dig!

Obviously, upon incorporation by New York State, the Village of Nelsonville was not an empty, barren piece of land. Due to the prosperity of the West Point Foundry the area known later as Nelsonville was already home to many inhabitants. In fact, around 1850 the greater Cold Spring/Nelsonville area had nearly twice as many inhabitants as it does today!

In 1830 the Pear Tree Hill School opened to educate the children east of the crest of the hill, supplementing the original school built of logs which was located near the intersection of Peekskill Road and 9D. The Pear Tree Hill School would later be rendered obsolete by the construction of the Hickory Grove Academy (or Nelsonville School) in 1880. Margaret Gouverneur, sole survivor, executrix and trustee of the last will and testament of Fredrick Philipse and others conveyed to George Post, Stephen Mekeel and Isaac Riggs, as the trustees of School District No. 10 of Philipstown, a plot of ground 150' x 250' for which the trustees paid \$600. The new School opened in 1881 with Granville Barnum, Principal, assisted by Miss Margaret Amerman and Miss Ida Green.

The Baptist Church was also formed around 1830, making it the oldest house of worship within village limits. About 1837 a contract was made to build 24 double houses some to be built in Nelsonville for the workmen of the foundry. In 1837 a new hotel opened in Nelsonville called the "Alhambra House." This hotel, which stood on the corner of Main and Division Streets, was later turned into tenant housing and burned to the ground in 1967. Thus obviously the Village of Nelsonville was already

"on the map"; in fact, some accounts refer to it as "East Cold Spring." Upon incorporation, however, Nelsonville took on a distinct character and even swallowed up adjoining "Mollysville" (the present intersection of Fishkill Road and 301) within its boundaries.

The De Beers Atlas of Cold Spring and Nelsonville printed in 1867 shows the following places of business:

Six Stores:-M. Smith, S. Smith (the Scott Store), S. S. Davenport (Mekeel's Garage), Odells saloon.
 One Brewery (owner unknown)
 One Toll Gate Caleb Hustis
 Part of house used for school in Mollysville, Jediah Purdy
 One meat market - Oscar Speedling
 One Marble Yard-Joel Bunnell
 Shipbuilding Timber (Stevens and Caleb Mekeel)
 One Harness Shop -Malcolm Evens
 A carpenter shop - Thomas Pelletier
 One Blacksmith Shop - Dan Dykeman
 One Hotel (Alhambra house) Lockwood Prop.
 One Painter house- James Monroe
 Teaming- W.H. Conklin
 Mechanical Draftsman - William Humphrey
 One Shoemaker- Dan Griffin
 One School house, presently 40 Secor Street
 One Tanning and Currying Business - Mr. Crosby; helper Marvin Wilson

Incorporation -1855

Election Notice: The electors within the territory hereinafter described are hereby notified that an election or meeting will be held at the store of William Riggs, in said territory, in the Town of Philipstown, in Putnam County, on the 12th day of October in the year 1855 for the purpose of determining by a vote whether the said territory shall be an incorporated village. At such meeting or election the polls will be opened at ten o'clock in the forenoon and be kept open until four o'clock in the afternoon, when they will be closed. The following are the boundaries of said territory:

"Beginning at the corner of the land of the late John J. Squires, and running from thence north seventy two degrees, west by thirty six chains, to the north easterly corner of land of the West Point Foundry Association and the corner of Corporation of Cold Spring; thence within the line said Corporation of Cold Spring north fifty seven degrees and fifteen minute, east 80 chains or one mile ;thence south 57 degrees 45

minutes east 64 chains; thence three degrees and 27 minutes, west 81 chains and 18 links, to the place beginning containing 600 and 70 acres of land."

The census of the territory to be incorporated, when taken on July 17, 1855, showed 400 people. The census was taken by Daniel Dykeman. The 2000 census shows (565) people living within the village limits.

When all the ballots had been counted at the election of October 12, 1855 it was found that the number having the word *yes* was 58 and the number having the word *no* was 33. Number of ballots cast. 91.

When the board of trustees met at the school house on November 19, they selected John Purdy as the first village president. The Oath of office was administered by Jacob L. Southard of Cold Spring. Village president John Purdy obligated George D. Denny, Harry Nelson, Harrison Townsend and Harry Hustis as Trustees, and Sylvanus B. Ellis as clerk.

On Saturday, November 24 at 6 P.M. the following officers were sworn in:

Assessors: Samuel Davenport, William Truesdell Jr.,
 Philander Ferris, William LaDue.

Collector: William Lovelace.

Constable: Isaac Ferris.

Pound Master: Daniel Dykeman.

Treasurer: Elias McLane.

The most important problems facing the first Village Board were those of financing and making by-laws.

On November 29, it was voted that a special meeting of the taxable inhabitants should be called for the purpose of taking a vote upon, the raising by tax of the hundred and sixty dollars for the following expenses:

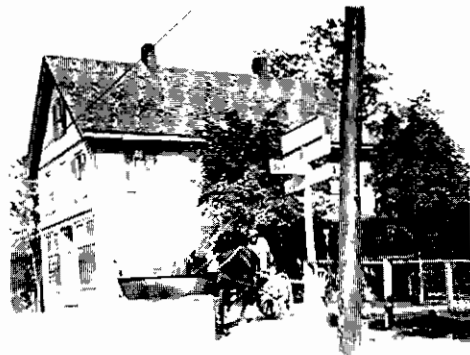
Expense of incorporation.....	\$75.00
Books, blanks, Stationary.....	\$10.00
Contingent expenses.....	<u>\$75.00</u>
Total	\$160.00

The first Village Board decided that "the salaries of Street commissioners and Assessors shall be 12 1/2 cents" (later amended to read "for every hour of actual service").

On March 15, 1856, the new Village Board selected Samuel Davenport

The need for a modern water system had long been discussed and in the year 1894-95 lakes were dammed, reservoirs constructed, pipes laid through the streets, and fire hydrants installed. There were seven miles of pipe. Meters were to rent at seven cents a month. Many in Nelsonville felt that their existing sources of water were sufficient. Cold Spring agreed to let them attach fire hydrants, and private individuals might connect to the main at any time.

Signs of the horse were everywhere in those days: hitching posts, drinking fountains or troughs, livery stables, horse sheds at churches, advertisements lining the roadside and the stepping stone out front. The blacksmith was still a man of some importance with his shop a rival of the store as a gathering place.



Our Village Board had not forgotten the horse. On June 8, 1899 the Cold Spring Water Commission told us to go ahead with the water trough, at the intersection of our main street and the Garrison Road (present day Peekskill Road). Still, our By-law Sec 14 stated - "That no person or persons, shall ride on horseback or any horse, mule, or mules in any of the streets of said village with greater speed than a slow trot or pace not exceeding the rate of four miles an hour . "(Penalty- One Dollar).

The Cold Spring Light, Heat and Power Company was organized June, 1898. On July 27, 1889 our Village Board signed a contract for six lights on Main Street, at a cost of \$33 per light per year. These replaced the kerosene lamps, called "fire flies" On July 28, 1904 on motion of Stephen Mekeel, second by James Jaycox it was voted that the street lamps be taken down and stored with Sherman Mekeel. After many corporate changes our village is now served by Central Hudson Gas and Electric Corporation.

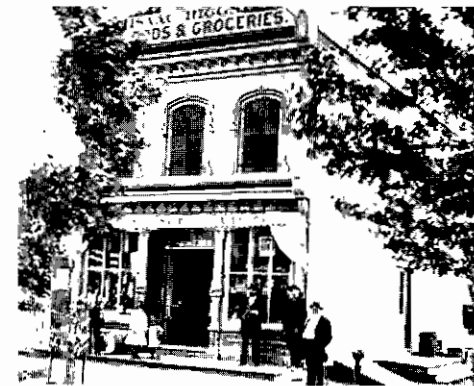
1955-Present

The quintessential defining element of our village is that it changes slow-

ly. Unlike other areas of lower New York State, including many of our neighbors, Nelsonville has a lesser population density now than it did one hundred years ago. We are pretty much the same, close-knit community that Elisha Nelson founded 150 years ago. That's not to say that things haven't changed at all.

In the last fifty years since the centennial booklet was published, we have witnessed the building of a new firehouse (1955) only to see our fire-company disband on June 25, 2001. Fire protection for the Village is now contracted to the Cold Spring Fire Company. The Firehouse now serves as a substation for the Putnam County Sheriff's Department and houses cars and equipment on the ground level.

Their dissolution doesn't detract from their brave service to our community. In the past fifty years they have responded to numerous automobile accidents and mutual aid calls as well as some very memorable fires that redefined our little community. Most memorable would be the destruction of 269 Main Street in 1967, the extensive fire at the Baptist Church



October 22, 1978, the burning of 316 Main Street (occupied by Tony DiMeo's Garage at the time) in the early 1990's, the razing of a historic barn behind Charlie's Deli (The Country Store) in 1994 and last but not least, who could forget the destruction of 257 Main Street (formerly Isaac Riggs Store and now the Village Green) in 1995. After the fire, the property was bought by the

Open Space Institute, along with 100 acres, and in 2001 was donated to the Village of Nelsonville. This donation assures that the growth of the community will be in keeping with the Village Master Plan and has evolved into the creation of "the Nelsonville Trail Nature Center and Wildlife Sanctuary" which runs along the foot of Mt. Taurus on the northern edge of town. In fact the Village of Nelsonville has been named "The Hiker's Hamlet" by the New



York State Greenway Conference and boasts a well-marked and beautifully maintained system of trails connecting the Village Green to the summit of Mt. Taurus (Bull Hill) and the rest of Hudson Highlands State Park.

Obviously the citizens of our little village value and respect the natural surroundings that make living here such a unique experience. Some prime examples that should be recorded for posterity include the cleanup of the Nelsonville Preserve in the fall of 1999, which saw dozens of volunteers remove 8,000 pounds of garbage and refuse, including six abandoned automobiles, from the forest. This cleanup is now an annual occurrence and ensures that our natural surroundings remain clean and foremost in our minds. This year's cleanup resulted in the creation of another marked trail accessing the Mt. Taurus trails, leading from the tollhouse on Main St. and connecting to the Nelsonville Trail and beyond.

Another example of our community's commitment to the preservation of our open space was the thirty-year legal battle with a local developer over the proposed construction of a mammoth 200+ unit condominium complex on 20 acres in the village. The development was to be located off 301 behind Allen Coal and the Cold Spring cemetery. Construction was begun in the early 1970s and footings were poured, but soon building ceased as it became apparent that such a large scale development would totally alter and destroy the character of the community. Over the next two decades the "Developer Issue" was fought out before the planning and zoning boards, and finally in the courts. In the end the developer abandoned his plans for a condominium complex and donated the property to the Catholic Church. It was then sold to a local developer and is now the location of an eleven unit housing development (under construction) more in tune with the character and charm of the Village, as well as with the community's Master Plan.

One last issue that brought the attention of the village citizenry to their surroundings and the preservation of the past was none other than James' Pond. As of the writing of this journal, the Haldane Central School District is in the final phase of completing the new high school building located on the Fathers of Mercy property. Initially, as part of the construction project, there was a full sized track and field planned for a portion of the Haldane campus known as Hill West, a rocky escarpment just to the east of the historic Annex Building and Carriage House. Also located on this piece of land is a small watering hole known as James'

Pond, which once served as the main water supply of the village. At the time when the referendum was approved by the district voters they were told that this small body of water would "not be infringed upon," however upon closer examination it was determined that the pond would have to be moved to make way for the planned track and field. The Hill West property lies mostly within the jurisdiction of the Village of Nelsonville, thus a large contingent of residents came to the pond's defense. The issue was a hotbed of debate for over a year within the community and culminated on March 24, 2004 at a special meeting of the Nelsonville planning board. Over fifty residents turned out to voice their opinions, overwhelmingly in support of the pond. To make a long story short, a local non-profit called The Friends of James Pond filed litigation against the school district concerning procedural and wetland delineation issues. The matter was settled out of court, with the school agreeing to a buffer zone around the pond and surrounding wetlands. The property is in the process of being sold by the district.

The Future

When we sat down to update the Centennial booklet put together by our predecessors in 1955 it quickly struck us that there really wasn't much to say. One of the charms of the village, one of its most appealing characteristics to residents, is the fact that little changes. Sure the village has become more of a "bedroom" community, with many residents hopping the Metro-North trains to New York City every day, but in reality it is no different the lives that those first groups of foundry workers who settled here led...the commute is just a bit longer. At the end of the day the village now still has the same sense of community and small-town values that it was founded upon. Everyone still pretty much knows everyone...and more importantly they know everyone else's business!

As far as the future...well, we are not fortune tellers, we are story-tellers. We would hope that whoever takes on the task of writing the 175th anniversary or bicentennial update has as much trouble in identifying the changes that occur...hopefully Nelsonville at two hundred will still be the small town that we all enjoy and call home.

Masonry In Philipstown

Originally by Milton Garrison, Master, Philipstown Lodge, NO236.

Updated by Peter Tomann

The first Masonic Lodge in Putnam County was chartered in the town of Southeast in 1785. The next was the Halcyon Lodge, No 240 chartered in Carmel in 1815. Both of these lodges ceased to exist about 1832.

Masonry and Philipstown lodge in our own community far antedates the institution of the present organization. On March 5, 1823 The Grand Lodge of Free and Accepted Masons of the State of New York granted a charter empowering Timothy Candee W.:M., John Dougherty, S.W. and Robert Service, J.W. the right to hold a lodge meet in a dwelling which afterward owned by William Davenport in formally the Tom Jaycox Store in Nelsonville. It was located between the Ezra J. Brewster house, on the corner store owned by Weldon Russell for it was torn down by Winslow McKeel when he built his present home. This lodge continued in existence until 1832 at which time masonry became much persecuted by individuals and organizations which knew and understood nothing of its ideas and activities. Masonry soon became divided in New York State, so that there were no less than three grand bodies holding jurisdiction at the same time.

On Sept. 18 1847 Philipstown lodge No. 12 F. & A.M. was chartered by the St. John's Grand Lodge of F. & A.M. of the State of New York. This Lodge had for its officers - William and Benjamin Dyckman, J.W. , and met Browne, W. :M., Sam Jefferds, S.W.: in a room over the store of Samuel Shelton, adjoining the printing offices of the Cold Spring Recorder, which office was at the time west of the railroad track and opposite Perry and Reilley's grocery store.

No minutes or records of this Lodge can be found but we have a record of several members of No. 12 and also No. 352 affiliating later with our present lodge No. 236 and the Original charter of Lodge No 12. Is nicely framed and in possession of Philipstown Lodge.

In 1850 there was a union of St. John's Lodge and the Grand Lodge of the State of New York and all Lodges under the Jurisdiction of the former ceases to exist except under the jurisdiction of the latter.

The Masonic Lodge had its beginning under dispensation granted on May

24, 1851, with the following officers:- Peter Lamson W.:M., James Truman S.W., Benjamin Dyckman, J.W. George Gilbert, Secy., Henry Molden, Treas., Robert Wilson, S.D., Samuel Beck, J.D. and Robert McCutcheson, Tyler. On June 24, 1851 the corner stone of the building in which the Lodge met was laid with proper Masonic ceremony and "The Kemble Guard Band" furnished music for the occasion. This Lodge room was subsequently decorated and furnished by the lodge so permanently that some of the decorations and symbolic furnishings can still be in the building which was used as an iron foundry by James Dubois. A large stone with complete Masonic symbols first decorated the front of this building. This stone has since been removed to the southeast corner of the present Lodge room. The Lodge was finally dedicated by W.:M.: Oscar Coles, Grand Master in 1852, just one year after its first meetings were held in the Odd Fellows Hall and some in the Presbyterian church. The Charter of the Lodge at which time Bro. Ward B. Howard who had been Jr. Grand Warden of St. John's Lodge acted as installing officer.

From this time on, Philipstown Lodge continued to work and history would record incidents of interest only to those chiefly concerned. On July 4, 1853, Philipstown Lodge joined with Solomon's Lodge in the laying of the corner stone of the monument in Tarrytown of John Paulding, David Williams, and Isaac Van Wart, the captors of the unfortunate English Officer, Maj. John Andre, in 1780. The festival of St. John the Baptist became a Masonic special event during the twenty years that followed and on Dec. 8, 1870 the Lodge moved to its former location on Main St. The New Lodge room was dedicated by a delegation of twelve Grand Lodge headed by Most W.G.M., John H. Anthon. The day of meeting was changed from Wed. to Thurs of each week and with these and special communications it was not unusual to have eight or nine meetings a month.

In 1871, Philipstown Lodge was incorporated according to the laws of the State of New York and a copy is on file in the Lodge safe: the original is on file with the Secretary of State. About this time or on June 1, 1877 the brothers living in Highland Falls, West point and surrounding country petitioned to withdraw and form a lodge at Highland Falls. This petition was denied and for a time caused dome heated debates. After ten years West Point Lodge was chartered as the first and only offspring of Philipstown Lodge.

Of Special interest to the ladies will be the minutes of Jan 27, 1887 at which time by invitation of Philipstown Lodge, W.: Bro. Robert Macoy was present and conferred the Degree of the Order of the Eastern Star upon many of the brothers and their wives. This order did not at this time organize, however. Five years before the chapter was instituted and proved to be a flourishing organization, by this time.

Space will not permit the detailed mention of the many activities of the lodge from this time on, but the following deserve special mention. On Dec 27, 1888 W.:M.:Wm. Wood first held public installation of the officers of the Lodge and from this time on has been a yearly event looked forward to with keen interest. On April 24, 1889 order of the Grand Master, a celebration known as the "Jubilee" was held to celebrate the completion of the Masonic Temple in New York City and the completion of the fund for establishing a home for the aged and the Unfortunate of the craft. The West Point String Band furnished the music for the Occasion.

About Aug. 31, 1898 a cemetery plot was purchased by the Lodge in Cold Spring Cemetery and the body of Franklin Williams, who died on the above date of fever contracted at Santiago, Cuba, in the Spanish-American War, was placed therein with fitting Masonic services.

After postponement due to the death of W: Bro. William McKinley, Philipstown Lodge celebrated its 50th anniversary on Nov 21, 1901, with only one member living namely Bro. Robert Wilson.

(The Above information was printed in a 1926 issue of The Cold Spring Recorder.)

Of more recent Social Meetings not already mentioned should be recalled the banquet held February 12, 1920, which was served by the Ladies Guild of the M.E Church. One June 5, 1923, certificates of Life - Membership were presented to Bro. Wm. Merrick-65 years in Philipstown Lodge. These Brothers were then addresses by W.:M.: Arthur S. Tompkins, Grand Master and an evening of entertainment was furnished by S. Cecile Quartet. The Lodge continued to be very active organization and many social gatherings were alternated with regular Lodge activities.

On June 27 1930, R.W. James W. Bailey was invested with his Apron and Jewel by Philipstown Lodge, following his appointment as D.D.G.M. under special dispensation, his homecoming was held in the Cold Spring M.E. Church which was filled to capacity. On Nov 30, 1934 R.W. Bro James Edge received his appointment to Grand Chaplain of the G.L. of F. & A.M. of the State of New York.

During the year 1936, the members of Philipstown Lodge decided to try to acquire the Nelsonville School for a new Temple. This was carried out successfully and on Oct 23, 1937 the laying of the cornerstones took place. Most W.: Jacob D. Klinck, G.M. and his staff of Officer and over 200 brothers were present and performed the ceremonies appropriate to the occasion. (It seems fitting that at this time I remind you that Masonry returned to Nelsonville, its birthplace in Philipstown after 105 years had passed. It returned to a building of many happy memories to many of us, and to a village with so many interesting, though not visible monuments to the past. It is fitting that this building, which for so many years was used to teach the younger generations the three R's, be now used to teach the high ideas of Free Masonry- that of Friendship, Brotherly Love and affection. Permission was granted to the Lodge to move to Nelsonville by the Grand Lodge on Nov 16, 1937.

In July 1, 1948 a reception was given to R.W. Chester A. Tompkins D.D.G.M. by Philipstown Lodge and his Homecoming was held in the Cold Spring church on April 17, 1949.

In year 1951, Philipstown Lodge celebrated its 100th anniversary. A week-long Celebration was held, the climax of which was the 2000th meeting held Sept. 6th 1951. W.: Bro. Philip C. Pinkel was master that year. From that year on there has been little that has happened of public interest.

In the Year 1955 the Putnam County Historical Society met in the Temple. This was conjunction with the 100th Anniversary celebration of the village of Nelsonville.

As noted in Mr. Garrison's writing above, the Masons and the village share significant portions of their history. At the time of the Village's 150th anniversary, the Masons will have been meeting in the same building for nearly 68 years and in which they celebrated their

own sesquicentennial in 2001. Current membership is near 60 brothers, about 25 of whom are active. In the late 1980's, a fire caused severe smoke and water damage to much of the building. The building was restored with only slight modification and retains the spirit of the original structure. Philipstown Lodge 236 graciously opens its facilities to many other organizations for their use. The Collabergh-Radium Lodge from Croton, NY, the Royal Arch masons, the Cryptic masons and the Order of the Eastern Star have all used the building for meetings, and Nelsonville will hold our 150th anniversary celebration on those same grounds.

Many present residents know little of the Masons or the services they perform in the community. The following is excerpted from the website of the Grand Lodge of the State of New York. "Masons are moral, honest men who work together to improve themselves and their communities." Through a statewide program called Child ID, the masons provide a free video identification record to the parents of about 15,000 children every year: 55 just recently at the first annual Putnam Valley day. In the future, this service will expand to include fingerprinting as they move to a new computer driven system.

In our community, the Masons run regular food drives for area kitchens and provide medical supplies and assistance to area residents in need. On several occasions, they have built wheelchair accessible ramps. The annual fruit sale was a popular event for many years, with all the proceeds donated to area charities.

The Nelsonville, Garrison and Mahopac homes of the Putnam ARC are invited to a summer picnic and a Christmas party every year sponsored by the Masons. These events are eagerly anticipated by everyone involved.

The most popular event hosted by the Philipstown Lodge is the annual fall steak roast. All members of the community are invited to enjoy good food and better company.

The Philipstown Lodge continues to thrive and perform its noble acts of charity and service in our community.

History of the First Baptist Church

Originally by Stephen G. Smith

Updated by Raymond Champlin and Michael Bowman

In the year 1800 the Baptists accepted an invitation to join the Presbyterians and Episcopalians in Union Services to be held in the loft of the pattern shop of the West Point Foundry. Each week a minister from



one of the denominations preached to the service, an Elder, John Warren preached for the Baptists. About 1826 a meeting was held with the idea in mind of raising money to build a Union Church. It was greeted with enthusiasm and the church was built of stone and cedar wood on high ground on a promontory near the river. Years later, after the conclusion of services this building became a pickle factory and still later it was torn down and parts of the original building made into a private dwelling by the Joseph Pensiero family.

In the year 1828 the Baptists sensed the need of a meeting house of their own and plans were inaugurated. On Jan. 14, 1830, a meeting was held at the home of Miles Bunnell for the purpose of erecting a house of worship. Thadius Baxter was appointed chairman and Miles Bunnell secretary. A committee of nine was selected to draw up the constitution, consisting of Miles Bunnell, Joshua Purdy, Perry G. Nichols, William Davenport, Thomas Smith, Jacob Denny, Cyrus Horton, Hosea Townsend and Nicholas Summerville.

The constitution was drawn up and approved on Jan. 28, 1830, and they called themselves the First Baptist Society of Philipstown. Through the untiring efforts of William Davenport, a valuable piece of property was donated by Samuel Gouveneur and his wife Mary for \$1.00. The property deed was dated April 1, 1831 and is that parcel of land at the crest of the hill lying partly in Cold Spring and partly in Nelsonville. At this meeting it was agreed that the trustees should raise the money for said church

by subscription.

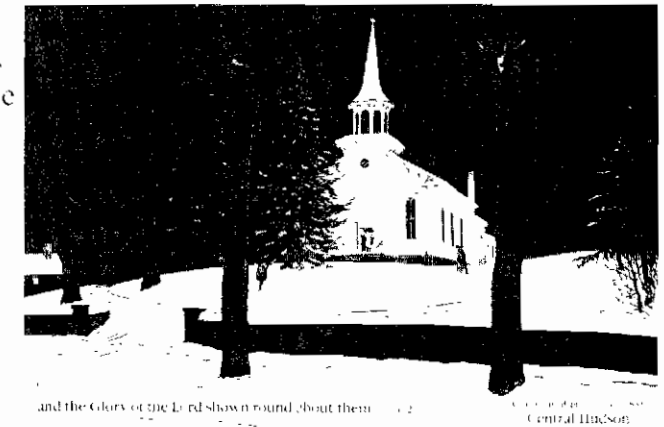
On April 19th of the same year another meeting was held to award contracts, and William Browne was hired to build the church at a cost of \$825.00. The church was built and dedicated in 1831. The first paid pastor was Rev. Isaac Bevan. From that day fourth, 1831 to the present, continuous service worship has been held under the same roof, a monument to faith and devotion. The Baptists have the distinction of having the oldest house of worship in which services have been conducted in the same structure for 174 years.

In February 1827, the Baptists in the area had voted to become a branch of the Peekskill Baptist Church. By 1833, they were ready for independence. Accordingly, on December 25, 1833 a council comprised of delegates from churches in Carmel, Peekskill, Patterson, Red Mills and Fishkill Plains met at the new church in Nelsonville. After due deliberation, the Baptist Church of Cold Spring was officially constituted.

The original church structure had undergone three major renovations. In 1854, a steeple, bell and large gallery, were added. In 1874, an extension was added to the rear of the building, and a baptistery was constructed (before this time Baptisms were performed in the Foundry Brook at the foot of Division Street). In 1962, classrooms and a kitchen were constructed on the rear of the building. As a result, the building which one views today from Main Street is essentially the same as what one would have gazed upon in 1854, with most of the additions and changes having been done to the rear of the structure.

Being the oldest continuously operated institution in the Village, the church has become indicative of change in Nelsonville...it is essentially the same as it was one hundred years ago. Like most of the buildings in the community, it has changed little over the past fifty years, with the 1962 addition and an October 22, 1978 fire being the only exceptions. The fire extensively damaged the interior of the main auditorium, but the rest of the structure was saved due to the quick and skilled response of the Nelsonville and Cold Spring Fire Companies. It wasn't until February of 1980 that the restoration of the building was complete, and it was rededicated on March 9 of that year.

Today parishioners of the "Church on the Hill" still make the same drive every Sunday morning that people did in 1831, only it's by car not horse and buggy. The climb up the hill, around the circle and past the Corporal James Hustis Monument, is still a Sunday tradition to many Nelsonville Baptists.



The Present Church Officers are:

Moderator - Edward Cleary; Treasurer - Cathy Costello; Clerk - Bonnie Warren; Financial Secretary - Bonnie Warren

Deacons: Cathy Costello, Marsha Lee Douty, Paul Laurelli, Chris Lilly, Chet Warren and Edward Cleary (Alternate).

Trustees: Louise Baxter, Raymond Champlin, Marge Laurelli, Luke Skinner and Bonnie Warren.

The present pastor is the Reverend Robert W. Douty and the organist is Norman Wright.

History of the Fish & Fur Club

Originally by Edward "Zeb" Collard

Updated by Michael Bowman

These facts are submitted for publication by me, but were received from the late John Brooks and Seward Jaycox before their deaths sometime ago. Both of these members had a great deal to do with the formation of the club during its infancy.

During the month of November 1895 the Fish and Fur Club was organized by a group of hunters, trappers and fisherman of Nelsonville. These men met at the home of one of the hunters, the late L. W. Jaycox, located to the east and adjacent to Champlin's blacksmith shop.

The following lists of names were chartered members who were instrumental in the formation of the club: John C. Henyan, Martin Adams, John Brooks, Josiah Ferris, L.W. Jaycox, Seward Jaycox, Henry D. Champlin, William Denny, William Henyan, Thomas Brooks, Frank Brown, Harvey Huestis, Leander Witlock, and Sherman Mekeel.

The first set officers elected to serve the club in 1895 were:

President....John Henyan
Vice Pres...Martin Adams
Treasurer...John Brooks
Secretary....Josiah Ferris

By-laws were written and adopted and not having any capital to work on, the club ran into debt for a few chairs and tables. These were paid for in a short time. The initiation fee at that time was 25 cents and dues were 10 cents per week. Non-payment of dues for 15 weeks meant automatic expulsion.

After occupying the room at the Jaycox building for three years, the club decided to enlarge a bit and moved to the George Speedling building on the corner of Main and Division streets, known as Market Corner. There they remained until the spring of 1905. The club then purchased from Josiah Ferris a lot located on the corner of Main and Pearl Street. Bonds were sold to all members of the club to erect a new club house, the present day Village Hall. The Club was erected by a local contractor, Martin Adams, for the sum of \$1500.00 dollars complete. In November 1905, a raccoon supper was held for the members, their wives and friends in honor of the official opening of the new clubhouse.

After occupying the new clubhouse for a time, the club incorporated and then, not having paid off many of the bonds, was forced to table the matter for an indefinite period. When the late Phoenix D. Shaffer was elected president of the club, he supervised a drive to clean up some of the club's outstanding bonds. After the drive was completed, it was found that there were still a number of bonds outstanding. These bonds were purchases from time to time by the treasurer, Seward Jaycox and held by him. Through his generous spirits, he donated the interest due on the bonds to the club and settled for face value.

During the year of 1943, the month of June, the club paid Mr. Jaycox for

all outstanding bonds, cleared the club of all indebtedness. Game parties were held weekly by President Edward Collard, and through the generous support of the public at these games and the hard work of the members, it was made possible to alleviate the club's indebtedness.

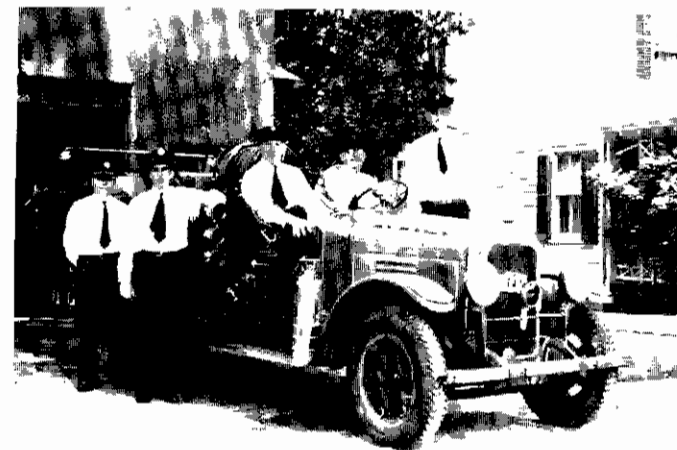
Today the Fish and Fur Club is still in existence, having occupied the present day Village Hall until 1971, when they "swapped" spaces with the village and moved into the former firehouse next door. In 1999 the Village undertook an extensive remodeling of both buildings, converting the original firehouse into a court room and meeting room.

The Nelsonville Fire Department, Inc.

Originally by Walter Scholefield

Updated by Michael Bowman with material supplied by Chester Warren

The Nelsonville Fire Department was organized and incorporated on April 14, 1923. The first meeting was held on September 8, 1923 in the Fish and Fur Club Rooms. The first officers elected were: Chief Engineer,



John Brooks;
Foreman, Phoenix
Shaffer; 1st Asst.
Foreman, Sam
MacAllister; 2nd
Asst. Foreman,
Norman Champlin;
Secretary J. Dorsey
Monroe. At a meeting
held September 15, it
was moved to change
the names of officers
to read as follows:

John Brooks, Captain; Phoenix Shaffer, 1st lieutenant; and Norman Chaplin, 3rd lieutenant. At the 3rd meeting held October 5, 1923, Harry Mekeel resigned as secretary and Fred V. Perpall was elected Secretary.

The Charter members of the department were Milton F. Smith, Fred V. Perpall, Phoenix D. Shaffer, David M. Miller, Seward Jaycox, Harry McKeel, Samuel MacAllister, Harry DeLanoy, James D. Monroe, Norman W. Champlin, John Brooks, John Cronk, and Eugene Purdy, Martin

Adams, Ernest Hicks, Elijah Hults, Ralph A. Smith, Fred Merkin and Elsworth Haun.

The first apparatus in use was a hose cart containing approximately 500 feet of hose, which had to be pulled manually to the scene of the fire. This was replaced in 1926 by a 6-cylinder Overland car donated by Frederick A. Culbert and converted into a fire apparatus by the Fire Department. In 1930 a new Brockway truck was purchased and remained in use until after World War II.



At the regular meeting held April 4, 1924, a committee was appointed to solicit contributions for a firehouse. Construction of the firehouse began in May 1924 on a lot owned by the Fish and Fur Club. In September 1925 it was voted to accept a proposal that the firehouse be taken over by the village of Nelsonville in return for money necessary to pay the bills for the completion of the building.

The Fire Company then rented the building from the village for \$41.00 per year. The Village of Nelsonville furnished the company with additional hose when needed and for the repair of the apparatus. The Fire Company was self supporting and depended solely upon the help of the public. In 1954 a new sign was erected over the large door facing Main Street, replacing the battered and weatherbeaten lettered front erected in 1924. Mr. William Constantino prepared the new sign and after its erection the building presented a somewhat newer look to passersby.

In March 1932 the Department became a member of the Hudson Valley Volunteer Fireman's Association. During later years the Department had the pleasure of participating in the annual parades of the Association in such cities as Beacon, Newburgh, Saugerties, Poughkeepsie, Hudson and Mechanicsville. In September 1948 the Department joined the Fireman's

Association of the State of New York and in 1953, when the Putnam County Volunteer Fireman's Association was formed, the department also became a member of that organization.

In 1951 the department purchased a lot on Main Street for the purpose of erecting a new firehouse. In April 1955 the construction of the new building was begun under the consultation of William Constantino and was completed in 1956.

From 1956 until June 25, 2001 the Village of Nelsonville Fire Department served the community bravely, responding to numerous brush fires, automobile accidents, mountain search and rescues, emergency floods and the occasional major fire. Some of these larger conflagrations are remembered well in the history of the village, including the destruction of 269 Main Street in 1967, the extensive fire at the Baptist Church October 22, 1978, the burning of 316 Main Street (occupied by Tony DiMeo's Garage at the time) in the early 1990's, the razing of a historic barn behind Charlie's Deli (The Country Store) in 1994 and last but not least, who could forget the destruction of 257 Main Street (formerly Isaac Riggs Store and now the Village Green) in 1995.

Despite this brave service, the Village firemen were forced to hang up their helmets for the final time on June 25, 2001 when the Nelsonville Firehouse was officially disbanded. The reason for their dissolution was the fact that there was a severe shortage of certified volunteers to meet State Underwriter and OSHA requirements, a situation that has plagued many volunteer departments throughout the nation. Fire protection for the village is now contracted to the Cold Spring Volunteer Fire Company. The Firehouse now serves as a substation for the Putnam County Sheriff's Department and houses cars and equipment on the ground level. One final note, in a tribute to their outstanding loyalty and dedication, the final members of the NVFD donated money to the Haldane High School, where it is utilized on a yearly basis to honor and recognize young graduates that have shown outstanding voluntary service to the community.

View of Main Street, Nelsonville, N. Y.



History of the Nelsonville Post Office

Originally by Thomas W. Jaycox

Updated by Michael Bowman and Josephine Doherty

In 1954 postmaster Edward Bodge was notified that the Nelsonville Post office was to be discontinued. Nelsonville had accepted the post office as part of itself for so long that it was as if the impossible had happened. As usual, a few led the fight to save the one thing that formed the backbone of this little community. They barely saved the Post Office.

Edward "Zeb" Collard's articles in the local papers, the petitions circulated by Village Clerk Louise Hustis and Mrs. James Hoffman and the aid of the Hon. Ralph W. Gwinn, Congressman, caused the Postmaster General to rescind the order.

The celebration of our Centennial year, following so closely the near loss of our Post Office, caused renewed interest in the past history of our Post Office. The information that follows was received by me from the National Archives and Records Service, Washington, D.C.

The Nelsonville Post Office was established in Nelsonville on February 1, 1888, in part of the building now occupying 290 Main Street. The first Postmaster was Horace Mekeel. Isaac Riggs became the next Postmaster on July 24, 1889, in the store which he had erected in 1870. On the death of Isaac Riggs the post office was run by his son, John C. Riggs, until the month of April 1890.

The Post Office was then moved in 1890 to the building at 296 Main Street and run by Frank J. Brown, postmaster until July 19, 1894 when it again returned to its former location on the Pearl Street corner, with John C. Riggs again as Postmaster.

After the death of John Riggs on October 16, 1919, David Miller purchased the building and became acting Postmaster. He acted as temporary Postmaster until November 1, 1921 when he received his permanent appointment. David Miller served as Postmaster until he sold the building to Osborn Mekeel sometime in 1923. On January 1, 1924, Osborn Mekeel was appointed Postmaster and served the village in this capacity for some 19 years, or until he sold the building to Edward Bodge. Mr. Edward Bodge was appointed Postmaster on August 1944 and was greeting customers up to and beyond the celebration of the Village's centennial in 1955. Mrs. Alice Coing Ford was appointed Postmaster in April 1959. In 1960 the Nelsonville post office became a "contract branch" post office, and several years later moved first to Montoe's store 296 Main Street, then to the Country Store, 289 Main St. In the late 1970's, the Nelsonville Post Office was consolidated with Cold Spring, sharing the 10516 zip code.

Nelsonville's Present-Day Business

by Peter Tomann

Although not in great number, Nelsonville today can be quite proud of its businesses.

Moving along our Village's Main Street from west to east we find first right at the corner of Pearl Street The Hudson Rogue Company, purveyor of antique books and prints. This is the former site of James E. Bushell's Antique Store and was originally a grocery and feed store owned by James Y. Dykman, whose name still graces the edifice.

On the opposite corner on the same side of Main Street was the general store of Edward Bodge and the Nelsonville post office. The building was converted to apartments and burned in 1994. This is the current site of the Village Green.

Further up Main street on the left is the blacksmith shop of Norman Champlin, who carries on in his father's stead. This is the oldest continous family-owned business in Putnam County. Welding is included in the work carried here.



Norman Champlin Sr. and Homer Jaycox inside the blacksmith shop

On the same side of the street a little further on is a strip of businesses housed in what was formerly Mekcel Brothers Garage and Showroom and Nolte's garage until the 1980's. Current businesses include a flower shop and hair salon.

Nearly opposite this we find Charlie's Deli. This is the previous location of Weldon Russell's grocery and paint store and Farrell's Country Store, which was formerly owned by Thomas W. Jaycox. (pictured below)



Across from the Garrison Road on the left side of Main Street, was the Grocery and Notions store of Louis Scott, which became Monroe's store. This building was torn down and rebuilt as a two-family dwelling in 2000.

Also on the left was Tony's Garage, now the site of Philip Guttridge Antique Restoration.

Near the upper end of the street, on the right side, is PARC, a facility used as a residence for adults with handicaps. Also on the right at the fork in the road is Pete's Hometown Deli, formerly the offices of the Allen coal company. Burke Electric is also next door.

Just behind this is MJ Automotive, which completes Main Street's places of business.

At right angles to and intersecting Main Street on its south side, Division Street has one business.

At the corner of Adams Avenue is Fairgate Rule Company, which produces a wide variety of measuring instruments. Previously, this building was called Hobby House.

Also at right angles to and intersecting Main Street, Peekskill Road claims three places of business, all on the right side.

Going southward from Main, one first comes to Thrift King Auto service, previously the site of Culbert's Garage.

Adjacent to this is the former Standards Plastics Company, currently occupied by multiple businesses.

Further down, across the Bank Street intersection and appropriately opposite the Cold Spring Cemetery, is George A. Logan & Sons Monumental Works, operated by Doug Logan.



Nov. 16, 1912

Left to right Norman Champlin, Charles Pope, Edward Adams, Henry David Champlin

The Bear Hunt

On 1820, the day after Christmas, a messenger came from the Lobdell Road to Nelsonville and reported that tracks of some wild animal were seen in a light snow that had lately fallen. The report spread like wildfire, and a company of 12 heroic men was formed, with a gun in each hand, and with as many dogs, started for the field of battle under the captaincy of William Henyan, uncle to James, of Nelsonville. On and on they went, sure of the conflict that was soon to come. The tracks in the snow were sure to be reliable. The dogs were put in front of the van. By noon they had come up with their enemy. The conflict then commenced. Captain Bill issued his orders and before a gun was fired he put the battle in array, with the dogs in the front ranks. They led the attack but failed and fell back.

The enemy still holding their entrenchment in the rocks, another attack must be made: this time with powder and ball, the Captain taking part in the ranks, orders were given to fire. This led the enemy to quail, three of their number being mortally wounded. The Captain ordered his company to reload. This done, the attack was renewed and the enemy conquered, which proved to be a bear and her two cubs nearly as large as their mother. The trophies captured that day were borne in triumph to Nelsonville the same evening. The bears were very heavy and as fat as butter. Then came the question: "What shall we do with them?" The butcher in the place was not slow in answering, for he wanted something savory for his customers and bought the lot. His stall was now complete for the New Year's holiday. Mr. Gouverneur secured the skins to make a sleigh robe. The Captain was ever after this called a hero and a brave man. The question would be asked him, "Who killed the bears?" "I killed the bears." The town was well supplied with bear meat on that New Year's Day, which was pronounced excellent. Most of the ladies enjoyed the unusual meat. Well they might, for the butcher was an expert at his business, and knew how to cut in a delicate way. The claws and tails were made into soup. The choice pieces were probably roasted or fried and served on toast. Some of the people were determined not to like it but after indulged in its delicate taste pronounced it good.

Thus ended the only hunt of any magnitude of which tradition has preserved the particulars. It was fraught with some danger but was not marred with any injury to the participants.

The parties who were present at the unearthing of the animals:

Mr. John LaForge, Nelsonville
Mr. Josiah Mekeel, North Highlands
Mr. Anson Lovelace, Nelsonville

Strange Incidents 1845-50

Robert Williams was engaged to be married to Caroline Warren, a graceful and beautiful woman. . who had a married sister living in New Hampshire. Caroline went there visiting and Robert Williams followed after her. He left the City of New York in the dead season of winter, leaving his house he had provided in Cold Spring for the return of his supposed bride, proceeded on his journey on the steamer *Lexington* which was burnt in the middle of Long Island Sound, leaving none to tell the fate of the passengers and crew. The journals of the day commented on it and all that could be gathered of the fate of the steamer was that a vessel was seen burning on the sound that night. It was the coldest weather of that year. Thus perished Robert Williams.

Caroline returned to Nelsonville soon after the sad fate of her intended. Caroline Warren was a graceful and beautiful woman, a sister of the wife of Elisha C. Baxter, Nelsonville, and was in the millinery business. She made frequent trips to New York to purchase goods. A young man, a personal friend, had conducted her to the boat and put her safely on board. The steamer proceeded on its way. It was late in the evening before the boat reached Cold Spring. The rain was coming down in torrents. A large Albany steamer was lying at the dock for repairs, occupying the whole front of the new dock, so the incoming steamer had to land its passengers over the deck of the boat at the dock, Caroline being the only passenger landed. She was not seen after that and no clue to her fate could be obtained. Mr. Baxter's family remained up for her until very late, and not arriving they retired. Soon after falling to sleep a knock was heard at the door. Mr. Baxter sprang up, supposing it was Caroline knocking but to his surprise no one could be seen. A knocking was heard several times, he answered by opening the door with the same results.

There was one theory discovered, the pastry cook on the boat said she was in the kitchen when the boat landed and soon after thought she heard a splashing in the water and a scream between the steamer and the dock. At times the knocking at the Baxter house door and windows continued, others visiting there would hear knocking and get frightened away. They were finally visited by their pastor, Rev. Mr. Bancroft, who spent the night there. The knockings were frequent during the night, and when he heard them would quickly go to the place whence the sound seemed to come, but nothing could be discovered. I heard him say all this seemed very strange to him and he could not account for it. He alluded to it in the church. Caroline's body was never found. It was evident that the River was her grave, but the cause of her getting there is still an unsolved mystery.

The following text appears predominantly as it was written by the Centennial Committee in 1955. We have chosen to only modify it slightly in order to preserve the original prose as a reflection of a simpler, and in many ways, better time, when things such as the Hudson-Fulton Celebration was front page news and you could still buy a model T for \$310, even if it only came in black. Any additions that we have made are easily recognizable and we do so only to "update" certain facts and locations to make them more understandable to the readers of 2005.

Incorporation of the Village of Nelsonville

By Miss Olive Adams, Mrs. Thomas W. Jaycox and Mr. Nelson De Lanoy

Mr. Otis Montrose assumed the management of the Cold Spring Recorder on July 3, 1908. Irving P. McCoy the retiring editor had succeeded S.B. Allis in 1891. Mr. Montrose published the Recorder, until his death on September 2, 1937.

In 1895 Mr. Montrose had come to Cold Spring as principal of the Haldane High School, which position he held for 16 years. He was post-master of Cold Spring for several years, and later was the principal of the Garrison School for a number of years.

Our present newspaper resulted as a combination of the Recorder and the Putnam County News by W. Osborn Webb. Started by Mr. Francis C. Dale on Feb. 5, 1931 as the Putnam County Reporter, and later sold to Mr. George W. Seymour, it was later purchased and edited by Mr. Webb. He purchased the Recorder shortly after the death of Mr. Montrose. The transfer of the Putnam County News and Recorder to John G. La Due, became effective on January 1, 1939. The PCNR is now run by Brian O'Donnell and is true to its byline..."139 Years Old but New Every Wednesday."

A temperance movement had been organized in our two villages as early as the 1830's, and there are records of delegates attending conventions

before the 1900's, but our present Women's Christian Temperance Union was first formed locally on Monday afternoon, Sept. 21 1908 when twenty-two ladies met at the Methodist Church and selected the following officers: President, Mrs. Edgar Travis; Vice Presidents, Mrs. Levi Christian, Mrs. William Wilcox of North Highland and Mrs. C.C. Griffin of South Highlands; Secretary, Mrs. Josiah Ferris; Treasurer, Mrs. Milton Smith. Others placed in charge of various departments were Miss Janette Saunders, Mrs. George Montrose, Mrs. Evelyn Newman, Miss Margaret Bruce, and Mrs. Josiah Ferris. The records of the society state that this last named Nelsonville lady was most responsible for establishing the local branch. Mrs. Milton Smith, another Nelsonville lady, was most responsible during the next 25 years for the activities of the WCTU, the LTL and the YPB.

The Loyal Temperance Union, a branch for children, was formed on November 23, 1908 largely through the effort of Mrs. George Montrose. Sixteen members were enrolled on that day. An older branch formed a few years later was the YPB (Young People's Branch).

On September 14, 1917 there were 209 members of the WCTU in the county- 40 were in Cold Spring. These ladies had signed a pledge, paid the dues, and donned the white ribbon, emblem of the society. There were 78 members of the YPB, and 231 of the LTL.

In addition to their part in helping to pass the 18th Amendment, members took part in other activities less commonly known. For many years they gave Christmas baskets, donated to community drives, promoted medal contests in public speaking, presented entertainments, made scrapbooks, donated money and articles for invalids and for veteran's hospitals, and visited the county farm. Their officers today (1955) are: Mrs. William Allen, Mrs. Isabel Hults, Mrs. Richard Gibson, Mrs. Harry De Lanoy, and Miss Mary Cargill.

The biggest news for both villages in 1908 was the gift of Constitution Island by Mrs. Russell Sage and Miss Warner to the Government. The inception of the idea was said to have come to Mrs. Sage when visiting Cragside and was due to the suggestion of Mrs. Butterfield.

William E. Henyan was advertising "Henyan soda is fine Don't Stop-keep going till you get there." M.F. Smith advertised; "Sand Gravel- best in

town- at reasonable price." Clarence Hults had fresh vegetables for sale at the Sherman B. Mekeel place (290 Main Street), which was on the land of Samuel Davenport in early days. Thomas Hill had a shoe shop in a large building at the corner of Main and Spring streets. The Nelsonville Fish and Fur Club, with Arvis Haight in charge, were to have a clambake on Saturday, September 19th, on the lot near the club house.

Citizens of both villages were urged to "prevent malaria and typhoid fever by buying Mount Taurus geyser water, at five cents per gallon, delivered every morning.". "Pure water is odorless and tasteless. Are you drinking pure water?" said the advertisement. A comparison of both the village supply and the geyser water could be made by glancing at the two containers placed side by side in a window of one of our Cold Spring stores.

In April 1909, Mr. James E. Bailey, secretary of the Masonic Lodge, announced the receipt of a letter from Mrs. S.J. Warren (of Charlotte N.C. who was born at Warren's Landing, opposite West Point 84 years before.) The old Warren homestead was located near the mouth of the Indian Brook, where at the time a great many of the hoops were loaded on boats for the New York Market.

On Sunday, January 31, 1909, the Presbyterian Sunday School celebrated its 80th Anniversary. This being the first school organized locally it had all the young people who desired to attend a Sunday school. On June 30, 1830, which is the earliest date for which records have been found, there were 13 male teachers, 8 female teachers, 42 male Scholars and 42 female.

The first De Lee medals were given at the Haldane High School on June 24, 1909. The winners were Miss Ethel Hustis (now Mrs. Thomas Jaycox of Nelsonville), graduating in three years, and Charles Miller. The awarding of these medals was discontinued in 1932 on the death of the original donor, Solomon T. De Lee. When reinstated in 1939 by his brother, Dr. Joseph B. De Lee of Chicago, the winners were Helen B. Bullock of Cold Spring and James Bushnell of Nelsonville. Both were descendents of early Nelsonville families. Among other Nelsonville winners was Harry T. Hustis Jr. ,who attended Harvard Law School.

Morris and Dora De Lee, the parents, were the first people of the Jewish faith to settle in Cold Spring. The father peddled goods from a pack.

When he saved \$150, he went to New York and brought back a bride. They lived for several years at their Cold Spring house. Their children attended the old Rock Street School, and the medals were awarded to perpetuate "the spirit of the good people of Cold Spring, while they lived there in the years 1850 to 1876."

Five thousand visitors from the surrounding countryside and elsewhere attended the Hudson-Fulton Celebration on Saturday, October 9, 1909. Cold Spring and Nelsonville were decorated as never before. Fireworks, flags, bunting, colored sashes, decorated floats, swing lanterns and brass bands provided color and sound.

The celebration was opened officially in the Foundry Field at 10A.M. by public meeting. About one hundred pupils from Nelsonville School led the five hundred school children in the parade that followed. There were 950 people in the parade. Those having autos in line were: Fred M. Camp, William Osborne (two cars), T.U. Mekeel, Dr. Fillebrown, Dr. Giles, Mrs. Butterfield, E.L. Post, W. A. La due, Clarence Smith and James Ferris.

Through the persuasive powers of Miss Mary Haldane, the *Clermont* had stopped at Cold Spring on the preceding Tuesday, carrying many people who once lived in the old Bullock homestead in Nelsonville. Miss Beatrice Bullock, a niece, traveled for some distance on the *Clermont*.

Great rivalry had existed among the historical societies as to who should have the honor of representing the foremost characters on the *Clermont* .Rev. C.S. Bullock was eventually selected because of his wife's knowledge of steamship history. His daughter took part of Harriet Livingston, the only woman aboard the *Clermont* when it steamed up the Hudson in 1807.

On any Saturday that the Rev. Charles Bullock visited here at the home of his brother, Edward L. Bullock, the two brothers usually sang duets in the Methodist Church Choir. Many times they sang George Pope Morris' stirring patriotic song "The Flag of Our Union Forever," a most appropriate song by our local poet of the 19th century.

In the early 1900's the circus was our mass entertainment. It brought pageantry to Main Street and displayed it most colorfully in the parade

that heralded the show to be given on Sandy Land (north end of Fair Street). Nearly every year "Uncle Tom's Cabin" or a traveling minstrel show was given at our town hall. Later, the tents of the Chautauqua brought entertainment and culture to the villages.

On April 6, 1910 the Village Board of Nelsonville had "moved and carried that a sign on or attached to a locust post, directing to Poughkeepsie and New York be placed by the water fountain" (at the corner of Main St. and Garrison Rd.) Two years previous to this, the road leading toward Garrison had taken its present size and direction when Ezra Brewer had fenced in the area to the West and South.

On May 11, 1905 an advertisement in "Leslie's Weekly" had described a buggy selling for \$50. By 1909 Henry Ford had concentrated on making one kind of car, the famous Model T. The more cars he sold, the lower the price until in 1926 they were selling at \$310 each. It was the beginning of the end for the old system of transportation travel and pleasure.

"The Good Old days" were over, on their way out. Only old forgotten pictures were to seldom remind us of the past. These some recalled: the hayrides, the fairs, Dutch ovens, Hollowe'en, quilting bees, the surreys and the buckboards, the hitching post, the apple dipping, the little red school house, going nutting, fishing in the brook, church meetings and socials, kissing games, "crack the whip," the old oaken bucket, candy pulling, the well-sweep, and our local fife and drum group that provided the music for parades and Holidays.

One who helped us bridge the gap between old and the present was Milton F. Smith, our mayor for all but one term 1914-1949. In the voting in Henyan's store (296 Main St. now a private residence reconstructed in 2002) on March 17, 1914, he received 27 of the 28 votes cast.

After World War I, "The Roaring Twenties" had great national sports heroes such as Ruth and Dempsey. The Raccoon coat, Mahjong, the ukulele and the crystal set became symbols of that period. There were also: the crossword puzzles, the Charleston, Peaches and Daddy Browning (with Roy Christian of Nelsonville Tying the Knot), Knee-high Skirts, Clara Bow, bobbed hair, and Lindbergh's flight.

Locally, the American Legion (receiving its charter in 1919) held its first

dance at the town hall on Friday evening, January 30, 1920. Two months later, a group in the Old Homestead club began the first movies in the Town Hall "Hillcrest Theatre" on March 16.

A few years later movies for both villages were being shown at the Nelsonville "Playhouse" (later called "The Strand"), at the southwestern corner of Main and Pearl Streets. Patrons of the old post movie theatre were now climbing the hill. Thomas Keenan's "Eureka Orchestra" and other players furnished the music at "the Playhouse."

In June 1920 Walter Monroe of the Nelsonville School won the Putnam Spelling Championship.

One year later, William R. Evans was completing his seventh year as Principal of the Nelsonville School. His Successor was George A. Morris who taught here until his death two and a half years later. Following him was Mr. A. B. Schofield of Beacon and Nelson De Lanoy (1932-1936).

An old Recorder article reads, "Miss Helen De Lanoy presented her first musical recital May 1, 1922, at the Methodist Church. Taking part was: Frances Starr, Elizabeth Mosher, Roberta Fleming, Gladys Jackson, Nelson De Lanoy, Edward Collard, Gordon Johnston, Evelyn Roach, Edna Collard, Ethel Merritt (her first piano pupil), Richard Palen, Gordon Stevenson, Doren Stewart, Ruth Garrison, Ruby Palen and Zylpha Garrison. There were vocal selections by Misses Virginia Starr and Helen Stevenson.

On April 8, 1922 the Village Board voted that bonds for the installing of fire hydrants be taken out with the Cold Spring National Bank. Someone remarked "This might be God's country, but it would look like Hell burning down." Serious fires had occurred at Seward Jaycox's residence on Main St. (June 23, 1902), Charles Tompkin's store on Pine St. (April 7, 1910) and Hotel Imperial at Bank and Division Streets (January 29, 1914). Our young fire company had a busy time early in the morning of November 12, 1924. Baker's Inn on the Garrison Road (near the cemetery) caught fire in three places and burned down, and there was another fire at Elijah Hult's on Pearl St. at 5:00 o'clock. No alarm was sounded as a barn full of hay burned to the ground.

On Decorations Day 1925 one of Haldane's greatest baseball teams

defeated Carmel in the final game of the season. Nelsonville supplied the battery- Edward "Zeb" Collard (catching) and Nelson De Lanoy with Willard Van Tassel on first base.

On June 19, 1925 James Ransom of Nelsonville participated in the first graduation exercises of Our Lady of Loretto School. The graduates were: Gerald Heckler and Francis Jones.

The best baseball teams to ever play for Nelsonville began with the organization of "Nelsonville All-Stars" in 1927. Frank Hanlon and James Ashcroft were managers. Their first picture, in the following year, shows (standing) Ralph Zeliph, Tom Van Tassell, Charles Cunningham, James Austin Sr., Harry McElrath. (Kneeling) Nelson De Lanoy, Patsy Landolfi, "Tootie" Etta, Nate Glick, Dick Lyons and Sam Van Tassel. Edward Collard and Paul Tompkins had played the previous years and played again in later years.

The Gallows Field diamond was constructed for the team by John Brooks. A few years later, this team headed by Dr. Ralph M. Hall became the nucleus for forming "The Twin Village Athletic Association." This group sponsored football, baseball and basketball. Nelsonville's entry in the Twilight League baseball circuit was called "The Uptowners". In 1932 four of their contests with "Hickory's Aces" ended in a tie. A few years later Nelsonville and Cold Spring again separated teams in the field on Sunday, and Nelsonville played its games at "Mitt's field" until 1941. After 1935 spectators watched from a large grandstand.

Milton Smith was defeated only twice for Mayor, from 1914-1949 both times by a written-in campaign. On March 17, 1931 he was defeated by Warren N. Merritt, and in 1949 he was defeated by Harry McElrath. The race was very close in 1925, when David Huestis and Fred Perpall Sr. ran against Milton Smith and Elijah Hulst for Mayor and trustee.

It was during Mr. Merritt's term as Mayor that a village ordinance was adopted, the first in 68 years. The ordinance was prepared without any expense to the village. Captain Francis C. Dale their village attorney, aided materially in the preparation of the ordinance. During Mr. Merritt's administration salaries were adopted by village officials. In 1934 he returned to office as Village trustee. He replaced Winslow Mekeel, who had held the office of trustee for 11 years.

The contract to build the first sidewalks, north from Town Hall on Main Street, was won by James Dubois on June 2, 1930. Most of the other paved sidewalks and streets and tarred and blacktop streets were begun during the Depression with WPA and PWA aid. Some work is now done each year as funds permit.

In June 1933 the last graduate exercises of District No. 10 School were held. Others completing the 8th grade in that building did so as part of the centralized school system. Trustees Theodore Selleck, Milton F. Smith and David Huestis used the columns of the local paper to thank the teachers publicly for their splendid cooperation. The teachers were: Teaching principal Nelson De Lanoy, Mrs. John Rathjen, Miss Jean Rusk, and Miss Betty Summerscales. The largest class to ever graduate was that of 1935 (17 in number). The last class to graduate from the Nelsonville School was in June 1936. Its members were: Elizabeth Barger, Edith Eitner, Rose Gallio, Valentine Nastasi, Jack Guertin, Fred Perpall, Arthur Warren, Walter Scholefield, Gerald McElrath, James Austin Jr., and Paul Brewer.

The Nelsonville Boy Scouts, sponsored by the American Legion, were organized in November 1933. The charter members were: Scoutmaster Nelson De Lanoy, Martin Adams, Ray Adams, James Austin Jr., Louis Christensen, Warren Eitner, Homer Jaycox, Douglas Knapp, George Mosher, Lester Parry, Robert Plimpton, George Scholefield, Samuel Seymour, Sanford VanVoorhis, Wesley Daniels, Alfred Glanville, and Edward Bullock. Shortly after Edward Bates was appointed Assistant Scoutmaster. For several years the meetings were held in Nelsonville School. Then Winslow McKeel offered a building and this was moved up to "Mitt's" field to serve as a meeting place. Troop 48 died out as the boys and leaders left to join the armed forces in World War II.

Now as we enter the present, this truth should ever be evident- that good citizenship and better community are inseparable. A better community cannot develop unless good citizenship is first practiced by the people.

A community can be bettered by its people becoming less selfish. They do not carry liberty to the point beyond which it becomes license and a nuisance for others. For this reason, and to set the dividing line between liberty and license, we have laws, and in the observance of these laws rest our good citizenship. The preservation of our American ideals, customs

and morals demands obedience to these laws.

Respectable citizens who have stood aloof from politics must hold aloft the torch of liberty and right. They must have their community in charge of honest and upright officials, and it behooves every citizen not to use unthinkingly the ballot that has been his legacy, won through sacrifices of our heroic forefathers. Remember that eternal vigilance is the price of liberty and a good community.

NELSONVILLE YOUNG MEN AND WOMEN WHO FAITHFULLY SERVED THEIR COUNTRY

by Phil Schatzle

In two World Wars many of our young men and women had to travel to distant shores to protect our country. A number were wounded; some died. George A. Casey Post No. 275 is named for a Cold Spring boy who died in World War I. James Harvey Hustis, a Nelsonville boy, gave his name to the local post of the Veterans of Foreign Wars (James Harvey Hustis Post 2362 V.F.W. of Cold Spring.)

The impressive ceremony when the monument was unveiled in memory of Corporal James Harvey Hustis was held on the Baptist Church lawn on Sunday afternoon, May 30, 1920. He died in France Nov. 8, 1918 of wounds received while doing scout duty in the Argonne forest on Sept. 20, 1918. The monument is a granite boulder, with bronze tablet attached, taken from the field adjacent to Huckleberry Hill. It was erected by the Nelsonville Detachment, 76th Company, New York State Home defense Reserve.

After World War II, the Adams memorial was erected by Edward Adams at the junction of Division Street and Adams Avenue. It was presented to the village in memory of his son, Martin E. Adams, and to honor other Nelsonville boys who served in that war. Those who died were: Martin E. Adams First lieutenant in the Air Corps, US army killed in action over France on August 27, 1944; Arthur Warren P.F.C. in the 363rd Infantry Regiment, U.S. Army killed in Italy May 19, 1945; and Walter F. Glanville killed in action in Germany Sept. 12, 1944.

Following is a list of known Veterans who have resided in Nelsonville and served their country. We acknowledge that the list is not complete, but has been compiled to the best of our ability. We ask that if you or someone you know has been accidentally omitted that you contact the Village Office in order to insure your inclusion in an upcoming addendum.



*Captain J.R. McLendon fired the first American shot in World War I
Captain McLendon lived in a barn behind
261 Main Street, Nelsonville*

Those Who Served	
War Of 1812	
War of 1812 - Capt Louis Squires- Old Burying ground	
Civil War	
Thomas Brooks	Theo Lovelace
Josiah Ferris	Thomas Pelletier
Benjamin Purdy	
World War I	
James Austin Sr	Harry Ireland
Chester Barrett	James Ireland
Daniel W. Barrett	George H. Lusk Sr.
Harvey Christian	Richard McCormick
Henry L. Daniels	Ralph A. Smith
Clarence Higgs	Thomas Van Tassel
James Harvey Hustis	Robert N. Woods

World War II

Vernon Abrams	Walter Glanville	Richard McElrath
Edward L. Adams	Jack Guertin	Harry E. Mekeel
Fairfield Adams	Alan Gunn	Richard McKeel
Robert D. Adams	William J. Hageny	Charles F. Miller
Ray H. Adams	Arnold Hale	David Miller
William F. Adams	Bea Hall	David Monroe Jr.
Ernest Adams Jr.	William Hall	John Meyer
Earl (Brud) Allen	Willard Hall	Harold O'Dell
Ernest Allen Sr	Leslie Haun	James O' Dell
James Austin Jr.	George W. Hawks	Charles Peparo
Joseph Baisch	Harriet Henyan	Robert G. Plimpton
Frank Basso	James Henyan	Robert P. Plimpton
Wetona Bernier	Harold Hoffman	Elmer Price
Axel Blom	James Hoffman	Fredrich V. Perpall
Conrad Blom	John C. Hopkins	Chester Robinson
Dudley Brewer	Bernard Hundley	Harold Sassone
Paul Brewer	Albert Ireland	Anthony Savastano
Harry Brown	Charles Ireland	George Scholefield
Harry M. Bushnell	Edward Ireland	Walter Scholefield
Clarence Butler	Harry Ireland	Ken Sheeley
Harvey Christian	George Jackson III	Gordon Stevenson
John R. Christian	Walter Jackson	William Thom
Robert Colbert	Homer Jaycox	Robert Thom
Edward Collard	Paul A. Jones	Eugene Travis
Louis Conklin	William Kent Sr.	Carl Upton
Harold Cooke	Dr. Joseph Klein	Richard Upton
Katherine Couser	Douglas Knapp	Howard Van Tassel
Thomas Couser	Charles J. Krauer	Chester Warren
Edward Daniels	Joseph Lahey	Edward Warren
James Daniels	Bernard Lahey	Harold Warren Jr
Robert Daniels	Philip Lahey	Robert Warren
Wesley Daniels	Joseph Luchetta Sr	Joseph Yankowski
Nelson Delanoy	George Lusk Jr	Ralph (Zip) Zeliph
Jeremy Dellaney	Donald V. Lusk	
John Dietrich	George Lyons	
Wilson Dietrich Sr	Robert Maddox	
Tom Donnelly	Charles Macher	
Howard Ellis	Joseph Merando	
Charles Feller	Ellsworth Moshier	
William Ferris	Edward Mancari	
James J. Gallagher	Anthony Mazzuca	
Ralph Garrison Sr.	Edward T. McCormack	
George F. Giametta	Donald McElrath	
J.Morton Gilbert	Gerald McElrath	
Albert Glanville	Thomas Mulligan	

Korea and 1956-1961

Ernest Amato	Edward Ireland
William Baisch	Edward Koja
Ben Baxter Sr.	Francis Lahey
Victor C. Bischoff Jr.	George Lawrence
Ronald Bodge	Douglas W. Logan
Thomas Bradley Sr.	Robert Matthews
Harold J. Brown	Michael McCullagh
James Budney Sr.	Kerry Meehan
John Burns Jr.	Raymond Monroe
John Cataldo	Paul Norton
Norman Champlin	Robert Rathjen
Raymond Champlin	Joseph Savastano
Gerard D'Emic	Arnold Schatzle
Robert Galligan	Edward Schatzle
Roger Gibson	Francis Schatzle
Francis Harvey	Philip Schatzle
Robert Hawks	Arthur Sutton
Richard Hawks	James Thom
William Hawks	Louis Thorpe
Walter Heady	Eugene V. Travis
James W. Helbock	Carmen Virgilio
Donald Hustis	Earl Warren
Charles Ireland	

Vietnam (1961-1975)

William Baxter Jr.	Jerome Mark
James Budney	Anthony Merante
James Doherty	Steve Merando
Ralph Garrison Jr.	Edward Moshier
Raymond Jones	Michael Olshakoski
Gary Maddox	Francis Schatzle
Robert Maddox Jr.	

Pre Gulf War- William Monroe, USN, Accidental Death Nov..85

Persian Gulf War (1990-1991)

Gregory Baxter	Greg McElhattan	Jason Meyer
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War on Terror

(Iraq and Afghanistan)

David Allen	Robert Nieves
Joseph Luchetta	Gary Watkins
Joseph Mark Jr.	Kevin Watkins
Tony Mazzuca	

Josiah Ferris was a Civil War veteran, having been confined in Libby prison for 2 years. He was very active in village affairs and the War Veterans. In the year 1910, he compiled a list of Civil War Veterans' names from Philipstown for the Historical Society, which was read at the annual meeting and ordered placed among the historical records. Mr. Ferris was also instrumental in arranging the grand reunion of the Sixth New York Heavy Artillery at Cold Spring on Labor Day 1910. The bugle used at these ceremonies by Comrade Flockton was the same bugle that he had used at the Battle of Antietam.

In our great wars of the twentieth century those at home served in defense organization, donated service groups, purchased U.S. government bonds, and worked in the shop and on the farm to hasten the day of victory.

Soldiers of Camp Spaulding guarded the Aqueduct to protect the recently completed water supply of New York City. Their barracks were where the Nelsonville ball field was later constructed at Gallows field. Perhaps some city-born lads, doing guard duty at night, still recall the tall tales of wild cats and other savage beasts they heard from some local residents.

Who was Leon Rockwell? Mr. J. Freeborn came to Cold Spring in November 1917, when Principal Rockwell of the Haldane School resigned to enter the army. In this same month Eleanor Culbert of Nelsonville received a bronze medal for the best country paper written about the Liberty Loan.

On January 24, 1917 Harry N. DeLanoy was elected president of the Philipstown Rifle Club and also Lieutenant in the Nelsonville detachment, Home Defense League. On Nov. 2, 1917 he marched his men up to Granville Barrett home for an enjoyable dinner and an evening of dancing. The members of the Nelsonville Drum Corps often donated their services while the men drilled. The members were: George Nichols, Harry Ferris and William Henyan. These and the other patriotic groups paraded when the Liberty Ball and Liberty Couch visited our villages on April 30, 1918.

On September 13, 1918 medals were awarded in services at the Methodist Church to those Boy Scouts who had sold the most Liberty Bonds: James B. Southard, Jr., Donald Stevenson, William A. Constantino, Haverly Lowry, Edward Culbert, Thomas W. Wilson, Bertram Bell, Charles Cunningham and Irving Burns. It was also the first time that the Methodist Church was publicly lighted with electricity.

THE FIGHTING MARINE

Albert Ireland was born in Nelsonville during World War I on February 25, 1918 at the corner of Division and Bank Street. He was a lightweight boxing champ in the Royal Canadian Air Force in 1941, before the United States entered World War II. He was the recipient of four Purple Hearts in World War II for wounds received on Guadalcanal and Okinawa. After World War II he received three more Purple Hearts while fighting around the "Punchbowl" in Central Korea. He is one of the past Commanders of the Veterans Of Foreign War, Post 2362, Cold Spring N.Y. Albert Ireland died in the Midwest on November 16, 1997. His ashes were interred in November of 2004 at the Cold Spring, N.Y. cemetery. A special ceremony attended by many guests and the Veterans of Foreign Wars' Post 2362 Color Guard paid a final tribute to our local hero on that cold, windy morning.



Boosters

Joan Allen
 Thomas Allen
 David Berk & Parents
 Dan & Loretta Berish
 Fay Bradley
 Thomas Bradley Sr.
 Thomas Bradley Jr.
 Tess Bradley
 Schafer Bradley
 Valerie Bradley
 In Memory of
 Ronald Bowman
 Marlene Bowman
 Steven & Lise Bowman
 Michele Risko & Michael Bowman
 Ben Burnstein
 Mat Burnstein
 Bruce Campbell
 Joan & Charlie Clauss
 Tania Dirks & Greg McElhattan
 The Country Goose
 Janet & Robert Engstrom
 Joanna Epsy
 Sandra & John Falloon
 Melissa & Ralph Falloon
 Sandra & Steven Kanuk
 Bevan Harris

Hilary & Bob Hayes
 Rosemary Bernasconi &
 Jason Jennejohn
 In Memory of
 Mary Ellen & Andrew Jones
 The Kenneys
 Robert Keesler
 Mariann & Ralph Landolfi
 Kirsti Lattu
 Rita Lemon
 In Memory of
 Andrew & Mildred Mason
 Donald & Ann McGrath
 In memory of
 Mabel Merritt
 Pauline Minners
 Patricia Perkins Law Office
 Jo Pitkin
 Alan Potts
 Dante Rapacioli
 Deanna & John Raso
 Art & Lois Sutton
 Larry & Dottie Turner
 Al & Candy Zgolinski

*Special Thanks to
 Patty Perpetua & Edward McCormick
 direct descendants of Elisha Nelson for the
 portrait they provided of him.*



EXHIBIT E

Date	Time (AM/PM)	Interior/Exterior/ Car	Location (Name of Street Address)	Voice Call/Text	Sent/Recieved (S/R)	Call Text Failure (Y/N)	Verizon Phone #	AT&T Phone #	Bars
25 Nov 17	11:17:00 AM	Interior	11 Secor Street, Nelsonville	Voice Call	Sent	No		646-354-3594	2/4
11/25/2017	10:11:00 AM	Car	Manitou School	Text	S	No		845 598 1620	3/4
11/25/2017	10:13:00 AM	Exterior	Manitou School	Text	S	No		845 598 1620	3/4
11/25/2017	10:15:00 AM	Interior	Manitou School	Text	S	No		845 598 1620	3/4
11/25/2017	10:19:00 AM	Car	Moffat & Plumbush	Text	S	No		845 598 1620	2/4
11/25/2017	10:21:00 AM	Car	Moffat & 9D	Text	S	No		845 598 1620	2/4
11/25/2017	10:21:00 AM	Exterior	Moffat & 9D	Text	S	No		845 598 1620	2/4
11/25/2017	10:24:00 AM	Car	37 Fishkill/Cemetery Entrance	Text	S	No		845 598 1620	2/4
11/25/2017	10:25:00 AM	Exterior	37 Fishkill/Cemetery Entrance	Text	S	No		845 598 1620	3/4
11/25/2017	10:26:00 AM	Car	Division & Bank St	Text	S	No		845 598 1620	3/4
11/25/2017	10:27:00 AM	Exterior	Division & Bank St	Text	S	No		845 598 1620	3/4
11/25/2017	10:28:00 AM	Car	Parsonage & Bank St	Text	S	No		845 598 1620	2/4
11/25/2017	10:29:00 AM	Exterior	Parsonage & Bank St	Text	S	No		845 598 1620	2/4
11/25/2017	10:30:00 AM	Car	Parrot & Bank St	Text	S	No		845 598 1620	2/4
11/25/2017	10:31:00 AM	Exterior	Parrot & Bank St	Text	S	No		845 598 1620	3/4
11/25/2017	10:33:00 AM	Car	Route 9D & Bank St	Text	S	No		845 598 1620	2/4
11/25/2017	10:33:00 AM	Exterior	Route 9D & Bank St	Text	S	No		845 598 1620	3/4
11/25/2017	10:36:00 AM	Car	Paulding & Route 9D	Text	S	No		845 598 1620	2/4
11/25/2017	10:37:00 AM	Exterior	Paulding & Route 9D	Text	S	No		845 598 1620	3/4
11/25/2017	10:40:00 AM	Car	301& B Street	Text	S	No		845 598 1620	4/4
11/25/2017	10:41:00 AM	Car	301 & Parsonage	Text	S	No		845 598 1620	2/4

11/25/2017	10:42:00 AM	Exterior	301 & Parsonage	Text	S	No		845 598 1620	3/4
11/25/2017	10:46:00 AM	Car	Pearl & 301 (Townhall)	Text	S	No		845 598 1620	2/4
11/25/2017	10:48:00 AM	Exterior	Pearl & 301 (Townhall)	Text	S	No		845 598 1620	2/4
11/25/2017	10:52:00 AM	Car	301 & Division St	Text	S	No		845 598 1620	1/4
11/25/2017	10:54:00 AM	Exterior	301 & Division St	Text	S	No		845 598 1620	2/4
11/25/2017	10:55:00 AM	Car	301 & Wood Av	Text	S	No		845 598 1620	2/4
11/25/2017	10:56:00 AM	Exterior	301 & Wood Av	Text	S	No		845 598 1620	3/4
11/25/2017	10:58:00 AM	Car	350 Lane Gate (by 301)	Text	S	No		845 598 1620	2/4
11/25/2017	10:59:00 AM	Exterior	350 Lane Gate (by 301)	Text	S	No		845 598 1620	2/4
11/25/2017	11:02:00 AM	Car	411 Lane Gate (at Moffat)	Text	S	No		845 598 1620	3/4
11/25/2017	11:03:00 AM	Exterior	411 Lane Gate (at Moffat)	Text	S	No		845 598 1620	3/4
11/25/2017	10:11:00 AM	Car	Manitou School	Voice	S	No		845 598 1620	3/4
11/25/2017	10:13:00 AM	Exterior	Manitou School	Voice	S	No		845 598 1620	3/4
11/25/2017	10:15:00 AM	Interior	Manitou School	Voice	S	No		845 598 1620	3/4
11/25/2017	10:19:00 AM	Car	Moffat & Plumbush	Voice	S	No		845 598 1620	2/4
11/25/2017	10:21:00 AM	Car	Moffat & 9D	Voice	S	No		845 598 1620	2/4
11/25/2017	10:21:00 AM	Exterior	Moffat & 9D	Voice	S	No		845 598 1620	2/4
11/25/2017	10:24:00 AM	Car	37 Fishkill/Cemetery Entrance	Voice	S	No		845 598 1620	2/4
11/25/2017	10:25:00 AM	Exterior	37 Fishkill/Cemetery Entrance	Voice	S	No		845 598 1620	3/4
11/25/2017	10:26:00 AM	Car	Division & Bank St	Voice	S	No		845 598 1620	3/4
11/25/2017	10:27:00 AM	Exterior	Division & Bank St	Voice	S	No		845 598 1620	3/4
11/25/2017	10:28:00 AM	Car	Parsonage & Bank St	Voice	S	No		845 598 1620	2/4
11/25/2017	10:29:00 AM	Exterior	Parsonage & Bank St	Voice	S	No		845 598 1620	2/4

11/25/2017	10:30:00 AM	Car	Parrot & Bank St	Voice	S	No		845 598 1620	2/4
11/25/2017	10:31:00 AM	Exterior	Parrot & Bank St	Voice	S	No		845 598 1620	3/4
11/25/2017	10:33:00 AM	Car	Route 9D & Bank St	Voice	S	No		845 598 1620	2/4
11/25/2017	10:33:00 AM	Exterior	Route 9D & Bank St	Voice	S	No		845 598 1620	3/4
11/25/2017	10:36:00 AM	Car	Paulding & Route 9D	Voice	S	No		845 598 1620	2/4
11/25/2017	10:37:00 AM	Exterior	Paulding & Route 9D	Voice	S	No		845 598 1620	3/4
11/25/2017	10:40:00 AM	Car	301& B Street	Voice	S	No		845 598 1620	4/4
11/25/2017	10:41:00 AM	Car	301 & Parsonage	Voice	S	No		845 598 1620	2/4
11/25/2017	10:42:00 AM	Exterior	301 & Parsonage	Voice	S	No		845 598 1620	3/4
11/25/2017	10:46:00 AM	Car	Pearl & 301 (Townhall)	Voice	S	No		845 598 1620	2/4
11/25/2017	10:48:00 AM	Exterior	Pearl & 301 (Townhall)	Voice	S	No		845 598 1620	2/4
11/25/2017	10:52:00 AM	Car	301 & Division St	Voice	S	No		845 598 1620	1/4
11/25/2017	10:54:00 AM	Exterior	301 & Division St	Voice	S	No		845 598 1620	2/4
11/25/2017	10:55:00 AM	Car	301 & Wood Av	Voice	S	No		845 598 1620	2/4
11/25/2017	10:56:00 AM	Exterior	301 & Wood Av	Voice	S	No		845 598 1620	3/4
11/25/2017	10:58:00 AM	Car	350 Lane Gate (by 301)	Voice	S	No		845 598 1620	2/4
11/25/2017	10:59:00 AM	Exterior	350 Lane Gate (by 301)	Voice	S	No		845 598 1620	2/4
11/25/2017	11:02:00 AM	Car	411 Lane Gate (at Moffat)	Voice	S	No		845 598 1620	3/4
11/25/2017	11:03:00 AM	Exterior	411 Lane Gate (at Moffat)	Voice	S	No		845 598 1620	3/4
11/25/2017	12:43:00 AM	Interior	9 Secor Street	Voice	S	No		347-886-2662	2/4
11/25/2017	1:51:00 PM	Interior	6 Rock Ledge Rd	Voice	S	No		516 524 5914	2/4
11/25/2017	12:31:00 PM	Interior	6 Rock Ledge Rd	Text	S	No		516 524 5914	2/4

11/24/2017	6:47:00 PM	Interior	16 Rock Ledge Rd	Text	S	No		646 275 6867	2/4
11/24/2017	11:00:00 AM	Interior	16 Rock Ledge Rd	Voice	S	No		646 275 6867	2/4
11/25/2017	2:12:00 PM	Interior	11 Secor Street	Text	S	No			
11/25/2017	2:48:00 PM	Interior	99 Moffatt Road	Text	S	No	917-882-1688		3/4
11/25/2017	2:49:00 PM	Interior	99 Moffatt Road	Voice	S	No	917-882-1688		3/4
11/25/2017	2:26:00 PM	Interior	289 Main St	Voice	S	No		516 524 5914	3/4
11/25/2017	3:15:00 PM	Interior	246 Main Street	Text	S	No	845-742-7112		4/5
11/25/2017	3:24:00 PM	interior	246 Main Street	Text	R	No	845-742-7112		3/5
11/25/2017	3:23:00 PM	Interior	246 Main Street	Voice	S	No	845-742-7112		3/5
11/25/2017	3:27:00 PM	Exterior	Manitou School	Text	S	No	917-882-1688		2/4
11/25/2017	3:27:00 PM	Exterior	Manitou School	Voice	S	No	917-882-1688		
11/24/2017	3:28:00 PM	Exterior	Moffatt & Plumbush	Text	S	No	917-882-1688		2/4
11/25/2017	3:29:00 PM	Exterior	Moffatt & Plumbush	Voice	S	No	917-882-1688		2/4
11/25/2017	3:29:00 PM	Exterior	Moffatt & 9D	Text	S	No	917-882-1688		2/4
11/25/2017	3:30:00 PM	Exterior				No	917-882-1688		2/4
11/25/2017	3:33:00 PM	Exterior	37 Peekskill (Cemetary Entrance)	Text	S	No	917-882-1688		2/4
11/25/2017	15:33	Exterior	37 Peekskill	Voice	S	No	917-882-1688		2/4
11/25/2017	3:35:00 PM	Exterior	Division & Bank Street	Text	S	No	917-882-1688		2/4
11/25/2017	3:36:00 PM	Exterior	Division & Bank Street	Voice	S	No	917-882-1688		2/4
11/25/2017	3:36:00 PM	Exterior	Parsonage & Bank St	Text	S	No	917-882-1688		2/4
11/25/2017	3:36:00 PM	Exterior	Parsonage & Bank St	Voice	S	No	917-882-1688		2/4
11/24/2017	3:37:00 PM	Exterior	Parrot & Bank St.	Text	R	No	917-882-1688		2/4
11/25/2017	3:37:00 PM	Exterior	Parrot & Bank St.	Voice	S	No	917-882-1688		2/4
11/25/2017	3:38:00 PM	Exterior	Rt 9D & Bank St	Text	S	No	917-882-1688		2/4
11/25/2017	3:38:00 PM	Exterior	Rt 9D & Bank St	Voice	S	No	917-882-1688		2/4

11/25/2017	3:39:00 PM	Exterior	Paulding & Rt. 9D	Text	S	No	917-882-1688		2/4
11/25/2017	3:40:00 PM	Exterior	Paulding & Rt. 9D	Voice	S	No	917-882-1688		2/4
11/25/2017	3:41:00 PM	Exterior	Rt. 301 & B Street	Text	S	No	917-882-1688		2/4
11/25/2017	3:41:00 PM	Exterior	Rt. 301 & B Street	Voice		No	917-882-1688		2/4
11/25/2017	3:42:00 PM	Exterior	Rt 301 & Parsonage	Text	S	No	917-882-1688		2/4
11/25/2017	3:42:00 PM	Exterior	Rt. 301 & B Street	Voice	S	No	917-882-1688		2/4
11/25/2017	3:43:00 PM	Exterior	Pearl & Rt. 301	Text	S	No	917-882-1688		2/4
11/25/2017	3:44:00 PM	Exterior	Pearl & Rt. 301	Voice	S	No	917-882-1688		2/4
11/25/2017	3:45:00 PM	Exterior	Rt. 301 & Division St.	Text	S	No	917-882-1688		2/4
11/25/2017	3:45:00 PM	Exterior	Rt. 301 & Division St.	Voice	S	No	917-882-1688		2/4
11/24/2017	3:47:00 PM	Exterior	Rt. 301 & Wood Avenue	Text	R	No	917-882-1688		2/4
11/25/2017	3:47:00 PM	Exterior	Rt. 301 & Wood Avenue	Voice	S	No	917-882-1688		2/4
11/25/2017	3:57:00 PM	Exterior	411 Lane Gate at Moffatt	Text	S	No	917-882-1688		2/4
11/25/2017	3:59:00 AM	Exterior	411 Lane Gate at Moffatt	Voice	S	No	917-882-1688		2/4
11/25/2017	4:00:00 PM	Exterior	530 Lane Gate by Rt. 301	Text	S	No	917-882-1688		2/4
11/25/2017	4:01:00 AM	Exterior	530 Lane Gate	Voice	S	No	917-882-1688		2/4
11/25/2017	4:11:00 PM	Exterior	9 Secor St	Text	S	No	917-882-1688		2/4
11/25/2017	4:11:00 AM	Exterior	9 Secor St.	Voice		No	917-882-1688		2/4
11/25/2017	4:12:00 AM	Exterior	11 Secor St	Text	S	No	917-882-1688		2/4
11/25/2017	4:13:00 AM	Exterior	11 Secor St	Voice	S	No	917-882-1688		2/4
11/25/2017		Exterior	289 Main	Text	S	No	917-882-1688		2/4
11/25/2017	4:14:00 PM	Exterior	289 Main	Voice	S	No	917-882-1688		2/4
11/25/2017	4:16:00 PM	Exterior	16 Rockledge Rd	Text	S	No	917-882-1688		2/4
11/25/2017	4:16:00 PM	Exterior	16 Rockledge	Voice	S	No	917-882-1688		2/4
11/25/2017	4:17:00 PM	Exterior	135 Moffatt Rd	Text	S	No	917-882-1688		2/4
11/25/2017	4:17:00 PM	Exterior	135 Moffatt Rd	Voice	S	No	917-882-1688		2/4

[illegible]

The goal of our testing is to provide an accurate characterization of the end-user's mobile network experience. Characterizing the end-user experience allows RootMetrics to help the networks improve and offer consumers an end-to-end look at performance from nation to neighborhood.

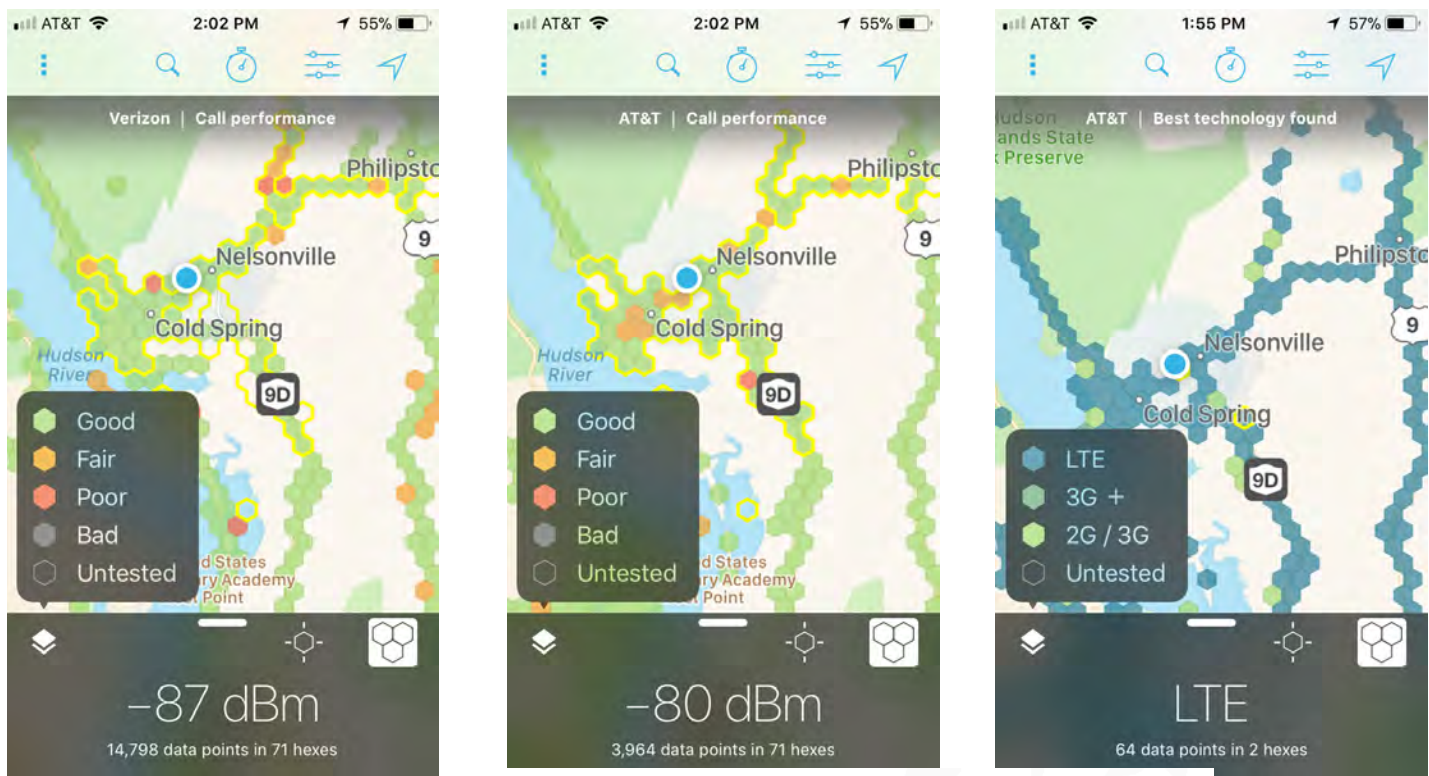
This means that our testing shows the impact of everything that can affect the consumer mobile experience end-to-end, from the network itself to the impact of device problems, routing or gateway issues, or problems encountered as networks switch from call to data service, among other things.

We have a dedicated analytics department that ensures we've collected enough test samples to accurately characterize an area with statistical confidence. To prevent bias and to further ensure that our test results provide a statistically rigorous and accurate characterization of network performance, we also use randomized spatial sampling techniques to collect data. Among other things, truly characterizing the consumer experience means that we:

- Test with the same smartphones that consumers use
- Test the same mobile activities that consumers use their smartphones for on a daily basis
- Test at the same times that consumers use their smartphones
- Test in the same places where consumers use their smart phones

source: <http://www.rootmetrics.com/en-US/methodology>

**COVERAGE MAPS GENERATED 11/25/2017
IN NELSONVILLE, NY BY LOCAL RESIDENT:**



CoverageMap Help

Call performance Fastest speed found Best technology found

How we measure call performance

In order to offer a more comprehensive picture of call performance as you experience it, we've created an algorithm that considers signal strength along with other performance indicators. New data points are given higher weight than existing data points to give our maps an average that is based on what users can expect today.

Why is the number of data points important?

To give you a sense of how thoroughly a location has been tested, we show how many unique data points we have received for each hex.

What does dBm mean?

Signal strength is measured as dBm, an abbreviation for the power ratio in decibels (dB). The closer to 0, the better signal strength.



dBm ranges

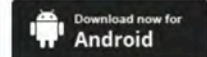
- Good -96 to -50 dBm
- Fair -108 to -97 dBm
- Poor -115 to -109 dBm
- Bad -116 dBm and below
- Untested

You can help! Download the app, run your own tests, and see your results added to the map.



Coverage Maps About Us Business

English

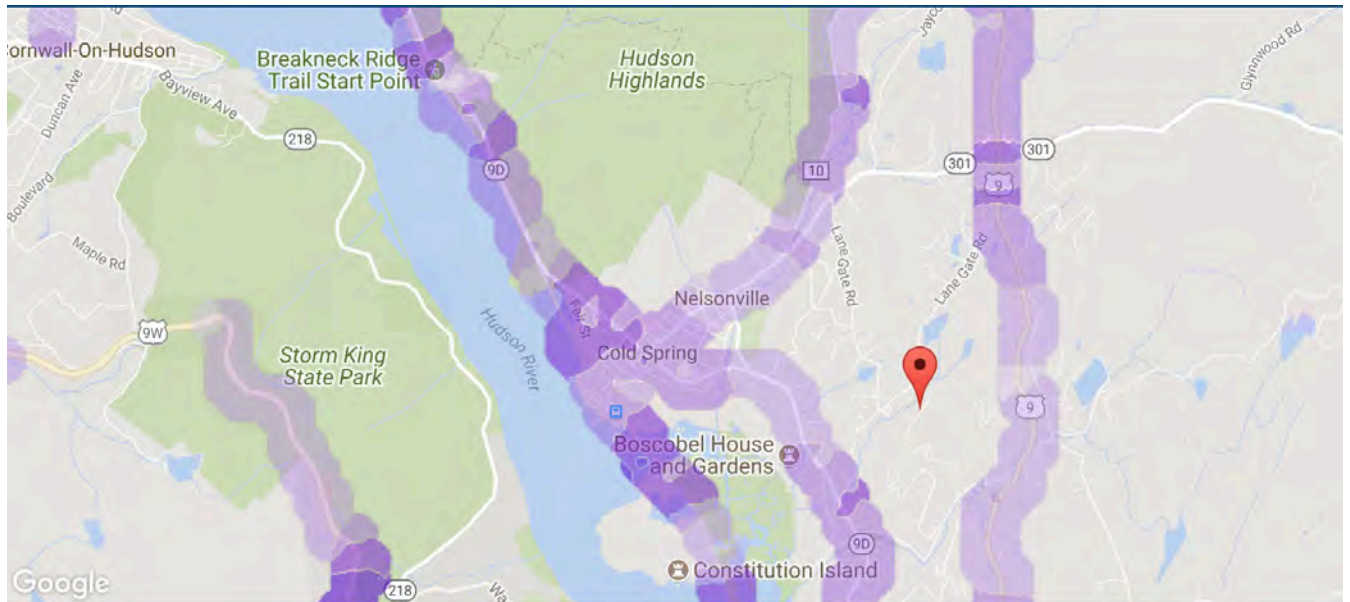


Unbiased Wireless Network Information. From people just like you.

Type your location

Your carrier

View performance



CLOSE

Coverage information

Signal strength
(bars):



This map displays coverage and signal strength as measured by the Sensorly crowd (340 to 420 measurements displayed on the map).
Last measured in July 2017.

Coverage and speedtest map > 4G - Verizon - USA

**COVERAGE MAP OF VERIZON 4G GENERATED
BY SENSORLY FOR NELSONVILLE, NY**

[http://www.sensorly.com/map/4G/US/USA/Verizon/
lte_310verizon#|coverage](http://www.sensorly.com/map/4G/US/USA/Verizon/lte_310verizon#|coverage)

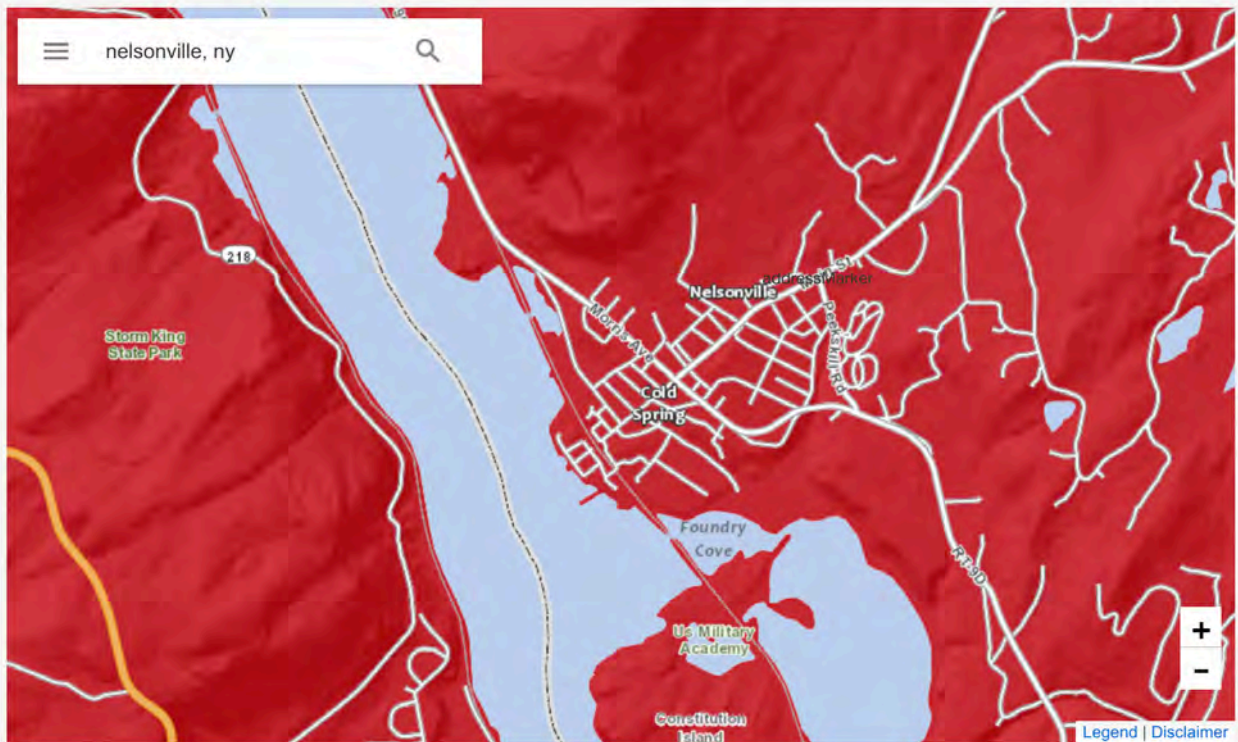
We have coverage where it counts.

We cover
322 million people

More than
98% of the US population.

Over
2.4 million square miles

or about 400,000 square miles more coverage than the nearest competitor.⁵

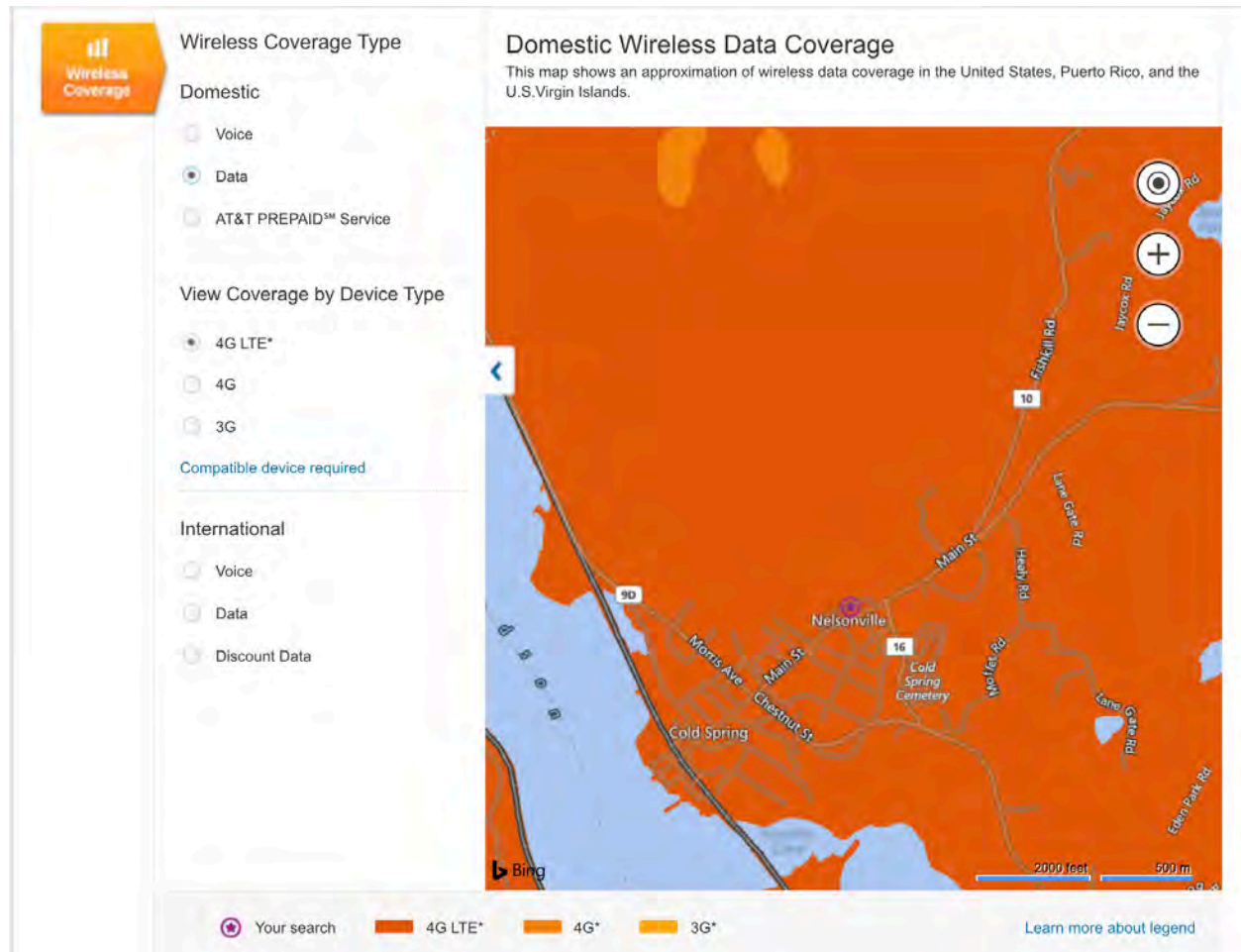


verizon

4G COVERAGE MAP OF NELSONVILLE, NY ON VERIZON WEBSITE

Search

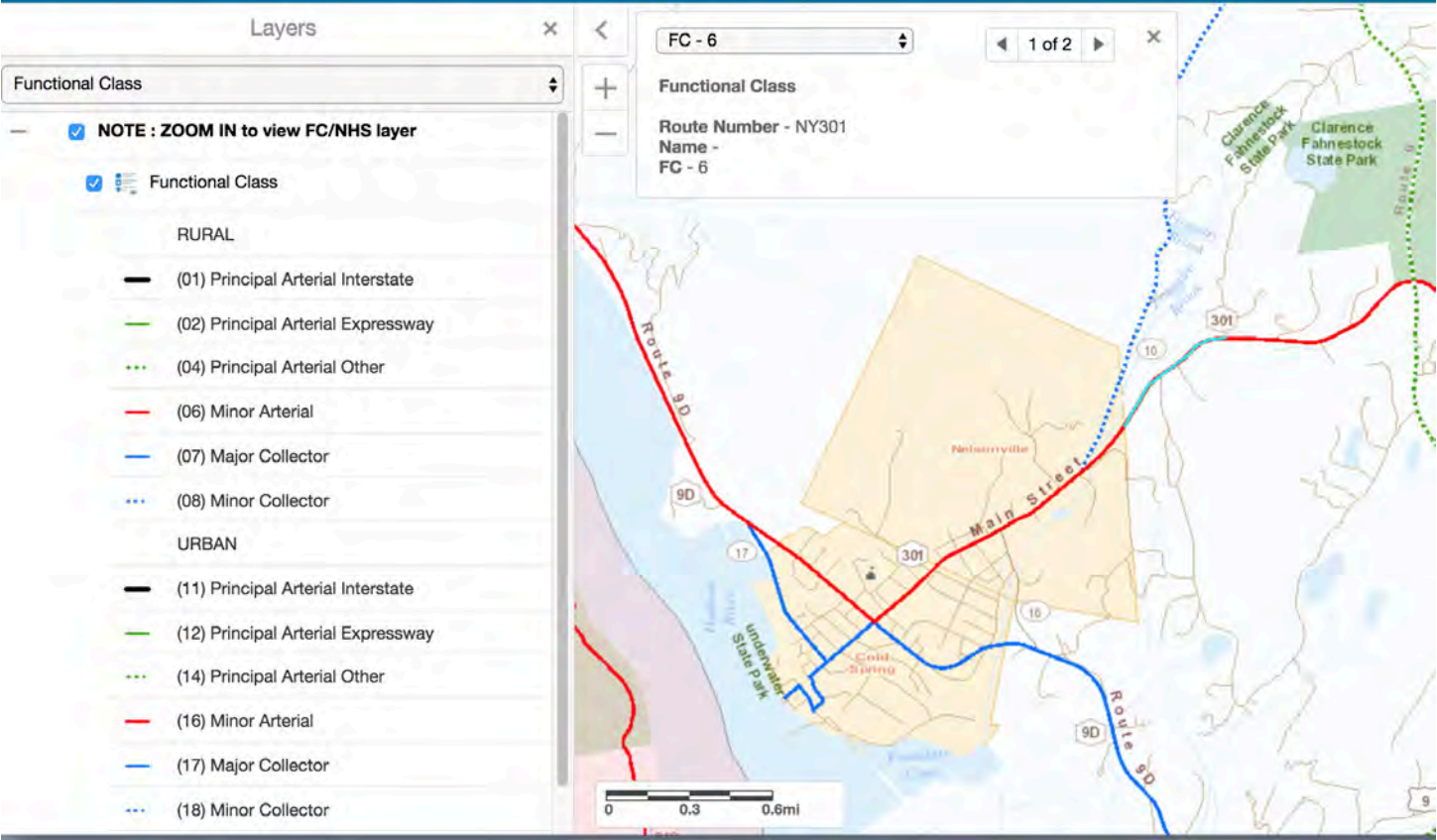
[Return to search location](#)



at&t

EXHIBIT H

New York State Department of Transportation Functional Class Viewer.



FUNCTIONAL CLASS OF NY301 AND 9D: “RURAL”

Functional Classification System					
Urban		Functional Classification	National Highway System	Rural	
Interstate	11			01 Interstate	
Principal Arterial (Expressway)	12				
Principal Arterial (Other Street)	14			02 Principal Arterial	
Minor Arterial	16			06 Minor Arterial	
Collector	17			07 Major Collector	
				08 Minor Collector	
Local	19			09 Local	
Map Urban Area			Other Urban Areas		

EXHIBIT I

27 November 2017

Dr Chris Marrison
7 Old Manitou Road
Garrison, NY 10524

To

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

Re: Homeland Towers Application for A Special Use Permit

Dear Board,

The RF studies commissioned for Homeland Towers are based on the use of modelling software. I am an expert in complex modelling software. I have a PhD in aerospace engineering from Princeton University and have spent the last three decades modelling complex engineering and financial systems, including the use of Geographical Information Systems (GIS is the basis of the software used for the RF studies).

Complex modelling software such as that used in the RF studies can be used to create results that seem to have a scientific sophistication and certainty. However, from long experience, I know that such software can produce a wide range of possible results depending on the quality of the software, the underlying data, and the assumptions made by the users.

In this case, the results are made to show gaps in coverage around Nelsonville. It is in the financial interest of the RF consultants, tower company, and the body leasing the land to generate results showing such gaps. Such gap results can then be used to convince companies such as AT&T and Verizon to make payments to the consultants, lawyers, tower company and leaser.

However, the pictures they have produced using this software are not substantiated by evidence of an actual gap. This calls into question the consultants' use of the models. If the model results do not match reality, there are four possibilities:

- The software is inadequate
- The data fed into the model is inadequate
- The user of the software has insufficient skills
- The results have been manipulated by the assumptions that the user has chosen to make

Although the results from the model look as if they must be scientific facts, they are merely a complex form of speculation.

The normal process for establishing the validity of results from a complex model includes the following steps:

- Provide back-testing evidence that the estimates produced by the models match actual performance in situations like Nelsonville
- List the assumptions in the software.
- List the data sources, when they were created and when they were last updated.
- In addition to the topographical information, list the mapping data used for the physical characteristics such as the iron content around Nelsonville, the built-environment and the vegetation, all of which you say are important factors in RF propagation.
- The reports list many factors affecting RF propagation. Describe which of these factors were modelled, and which factors are not included in the modelling results.
- Describe the granularity of the underlying raw data.
- List the assumptions made in running the model. To what extent are these conservative?
- For each assumption show the maximum and minimum of the reasonable range, show the value used to create these results, and the reason for that choice, e.g., was it based on empirical evidence, or just the users' judgement?
- What are the sensitivities of the results to the assumptions? Show how the gap-estimates change when each of the assumptions are moved to the minimum and maximum of their range.
- What is the minimum change in the assumptions that would show sufficient coverage in Nelsonville?
- All models are incomplete representations of reality. List the factors that are not included in this model.
- Explain why the results presented do not match the reality on the ground.

Without such validation, the results from these models should be taken as nothing more than sophisticated speculation. Speculation is not a sound basis for the Board to permit this special use.

Yours faithfully,

Dr Chris Marrison



PRINCETON UNIVERSITY

LET THIS CERTIFY THAT

Christopher Ian Marrison

HAS SATISFACTORILY COMPLETED

THE SPECIAL PROGRAM IN

SCIENCE, TECHNOLOGY, AND PUBLIC POLICY

IN THE

WOODROW WILSON SCHOOL

OF PUBLIC AND INTERNATIONAL AFFAIRS

JUNE 7, 1994



Hazel T. Shapiro

PRESIDENT

Sigma Xi The Scientific Research Society



Devoted to the Promotion of Research in Science

By this Certificate Warrants that

Christopher Ian Morrison

was duly elected a Member

by the

Princeton Chapter

of the Society

in the year 1992

*and has accepted the privileges and responsibilities
of this membership as specified by the constitution and bylaws.*



Rita R. Colwell

PRESIDENT

John F. Ahern

EXECUTIVE DIRECTOR

Vincent T. Zabolchko

CHAPTER PRESIDENT

Philip A. Grubbs

CHAPTER SECRETARY

non tantum in eruditione ingenioque tam praestare emilet,
ad res mechanicas et aerophaticum
tam praecipue eminet ut summos publicos honores pro
Praeses et Viratores Universitatis Princetoniensis eide
Philosophiae Doctoris
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pertinentibus fruendi potestatem delatimus.

Huius rei haec membrana sigillo nostrae Universitatis rata et nominibus Praesidis et

Datum Studae Nassouicae
die XXI Januarii
Anno Domini MCXCV



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rebus mechanicis et aerophatiis pertinentium
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doctores Universitatis Princetoniensis eidem titulum gradumque
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illis iuribus privilegiis honoribus ad summum gradum quaque
vendi potestatem detulimus.

in sigillo nostrae Universitatis rata et nominibus Praesidis et Secretae munita testimonio sit.

icae



Hazel T. Shaprie

Thomas H. Coign

Secretaria

*atores Universitatis Princetoniensis
nitus has litteras lecturis
Salutem in Domino.*

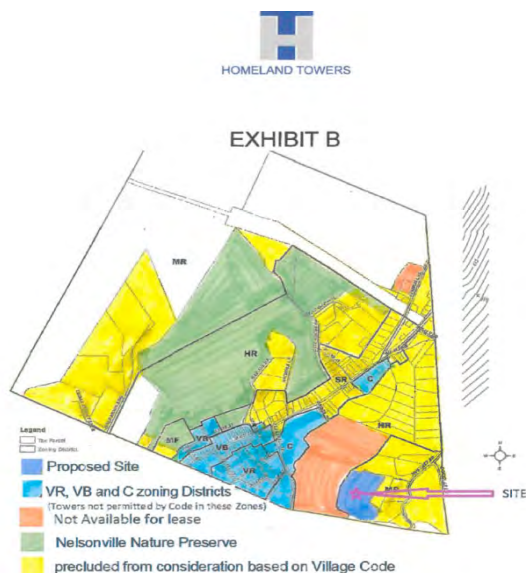
*is qui ad altissimum gradum doctrinae ac disciplinae
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genioque tam praecclare enitet sed in scientia
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*Quandoquidem decet eis qui ad altissimum gradum doctrinae
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ad res mechanicas et aerospatium pertinentes
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Praeses et Curatores Universitatis Princetoniensis eidem titulo*

ALTERNATE SITES?

DID HOMELAND REALLY SEEK THE LEAST INTRUSIVE LOCATION FOR THEIR TOWER?



THE CODE SAYS:

1. TOWERS ARE PROHIBITED IN VR, VB & C ZONES
2. 300 FOOT SETBACK FROM RESIDENTIAL STRUCTURES
3. POSSIBILITY OF HAVING A 50 FOOT BUFFER OF VEGETATION
4. MINIMUM SIZE LOT EQUAL TO ONE ACRE

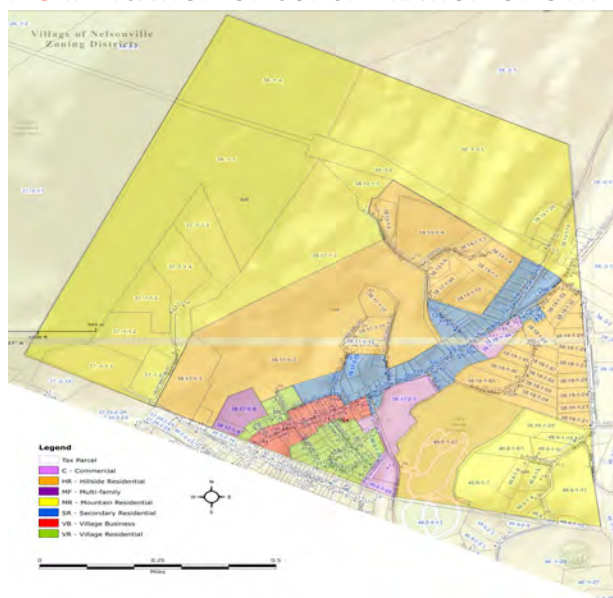
WE CANNOT RELY ON APPLICANT:

NO REPORTED CONTACT OF OWNER OF 38.1-2 (NYC) OR 38.1-3-1 (NY STATE), LARGE LOTS THAT ARE FURTHEST AWAY FROM VILLAGE/HOMES/TRAILS

NO INDEPENDENT ENGINEER EVALUATION OF 50 FISHKILL ROAD (**RELIED ON HOMELAND ASSESSMENT**)

NO INDEPENDENT ENGINEER EVALUATION OF MCKEEL CORNERS (**RELIED ON HOMELAND ASSESSMENT**)

NO INDICATION OF CONSIDERATION OF OTHER LOTS OVER 2 ACRES IN NELSONVILLE:



TAX MAP #	ACRES	
38.1-3.1	72.4	
38.1-2	18.02	
37.1-2	4.94 (MR)	
37.1-1.2	9.93 (MR)	
37.1-1.3	8.6 (MR)	
37.1-1.4	9.26 (MR)	
37.1-1.5	14.18 (MR)	
38.13-1-1	4.96 (MR)	
38.13-1-4	11.72 (HR)	
38.18-1-12	4.42 (HR)	
49.6-1-13	10.48 (MR)	
AND MORE...		